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(HANSARD)

Tuesday, November 29, 2011

The Honourable NOËL A. KINSELLA
Speaker

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(Daily index of proceedings appears at back of this issue).

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THE SENATE

Tuesday, November 29, 2011

The Senate met at 2 p.m., the Speaker in the chair.

Prayers.

VISITOR IN THE GALLERY

The Hon. the Speaker: Honourable senators, I would like to draw your attention to the presence in the gallery of Mrs. Fawn Wilson White, a distinguished Canadian and International Chairman of the Friends of Certosa di Capri.

On behalf of all honourable senators, welcome to the Senate of Canada.

SENATORS' STATEMENTS

THE LATE TOM KENT, C.C.

Hon. James S. Cowan (Leader of the Opposition): Honourable senators, I rise today to pay tribute to a giant of our time who passed away on November 15 at the age of 89. Tom Kent was an extraordinary man, possessed of a rare intellect, with a gift for seeing clearly not just what was, but what could be. He was not moved by a desire for recognition — I suspect that few Canadians know his name — but rather by what he himself described as a sense of public purpose.

While many Canadians may not know his name, they do know and are fiercely proud of his legacy. Medicare, the Canada Pension Plan, our open immigration system and the Canada Assistance Plan were all the result of Kent's brilliant mind. How many millions of Canadians have been helped by these programs? How much of Canada has been defined in our minds and in the eyes of the world by this one exceptional man?

He did not come from privilege. He was born in England in 1922, the son of a mining machinist. He went to Oxford on a scholarship and then, during the Second World War, he found himself working as a code breaker at Bletchley Park. Indeed, he was part of that famous team that broke the secret of the German Enigma machine. After the war, he moved to journalism, becoming part of the editorial board of *The Manchester Guardian*. In 1954, he immigrated to Canada, taking over as editor of the *Winnipeg Free Press*. It was during those years that he began what became a lifelong involvement with the Liberal Party.

In 1957, Mike Pearson asked Tom Kent to help him write the speech that Pearson would give for his Nobel Peace Prize address. With that began one of the most creative and productive associations in our political history.

In 1960, at the Liberal Party's now famous Kingston thinkers' conference, Kent delivered a paper entitled *Towards a Philosophy of Social Policy*. In his words:

> A good deal was devoted to my favourite theoretical theme: freedom is not just the absence of constraint but, equally, the opportunity to act. For anyone except a hermit, the opportunities of the individual depend on the society in which he or she lives.

Kent then laid out a plan to build Canada into the kind of society that would give Canadians — all Canadians, not just a privileged few — that freedom and the opportunity to act. Medicare, sickness insurance, a revamping of unemployment insurance, employment training, regional development, urban investment, public housing, better schools with more and better-paid teachers, national university scholarships, investments in the infrastructure of our post-secondary education system, and international development aid — the agenda he set out in that paper was ambitious, but today, 50 years later, we can see how successful this was in laying the groundwork for the great nation Canada has become. As he said, it was never about "handouts" but rather "hand-ups" — opportunity for all to participate in the successes of the world.

The Liberals under Pearson of course won the 1963 election, and Kent became the Prime Minister's policy secretary and served with distinction. In 1971, he left the federal government to become the President of the Cape Breton Development Corporation and later Sydney Steel.

In 1980, Kent was appointed Chair of the Royal Commission on Newspapers, which became known as the Kent commission. After years spent as a newspaper man, he was charged with looking at the growing concentration of media ownership. His report, delivered in 1981, was controversial — well received by the Canadian public and by journalists, but less so by the publishers themselves.

He then moved into the academic world becoming Dean of Administrative Studies at Dalhousie University. It was in those years at Dalhousie that I got to know him. I remember turning to him on one occasion for advice on a thorny issue of governance within the university — a battle between the board of governors and the university senate. I recall that with his help we were able to find a very sensible solution to a rather tricky problem. He later moved to Kingston and became an adjunct professor at Queen's University.

He never retired and he never stopped writing thoughtful, insightful pieces on a wide variety of public policy issues. Just last April, he wrote a lengthy article for the Caledon Institute of Social Policy entitled *Health Care in a Renewed Federalism*, the result of a lifetime thinking about the issue. At 89 years of age, shortly before he died, he finished a paper for the Broadbent Institute entitled *The Social Democracy of Canadian Federalism*. He disagreed passionately with the reduction of the federal government to a mere managerial role and the trivialization of politics. In a 2004 interview with Michael Enright of the CBC,

Kent said that the role of the national government "is to show that we can still do big things together." He knew that there are big things yet to be done in this country and that government must play an important role in helping that to happen.

Honourable senators, Tom Kent's role in the lives of millions of Canadians is perhaps unparalleled in our nation's history. He had the great satisfaction of knowing that he had truly made a difference in his lifetime. His was truly a life of public purpose.

NATIONAL CHILD DAY

Hon. Ethel Cochrane: Honourable senators, I rise today in honour of National Child Day, a time when we recognize the importance of children's rights and we celebrate the talents of potential within all children.

Last Friday morning, this place was alive with the energy, the voices and the hopes of 250 school children. This year, we address the issues of bullying and teen depression with the theme, "We Support You." Though the topic was heavy with meaning and emotion, the event was filled with inspiration, positivity and warmth.

Master of Ceremonies Michel Naubert skilfully guided the program. "Triple Trouble" dazzled us with their dynamic mix of fiddle music and tap dancing. Canterbury High School's Keli Jay, Mikayla Jensen-Large and Miranda Quesnel impressed us with their beautiful harmonies; our Senate pages educated and engaged; and Brandon Wint, a wonderfully talented beat poet, commanded our attention and left us awestruck.

• (1410)

Our keynote address was delivered by Jeremy Dias, of Jer's Vision, a youth diversity initiative that fights discrimination in Canada. Jeremy shared his deeply personal experience with bullying and how he persevered with passion and a belief in himself.

Honourable senators, Jeremy's story held the audience spellbound. His message was one of inspiration and motivation. Everyone in the room was affected by his speech.

Another highlight of the morning was the presentation of the "Awesome Youth" award. This year's recipient, Anna Clement, is an extraordinary girl who, at just 15 years of age, is already a gifted leader. A city-wide ambassador for the Kid's Help Phone, Anna will soon be organizing and leading "Beyond the Hurt," a program that recruits and trains students to develop creative approaches to combat bullying.

Honourable senators, I was inspired and motivated by the incredible youth leaders and sheer talent in this place on Friday.

I would like to thank His Honour for his continuous support for our National Child Day events. I would also like to remind all honourable senators to join us for a special breakfast event in honour of National Child Day. It will be held next Tuesday morning in the Senate foyer.

Finally, I wish to extend a heartfelt thank you to my two co-hosts, Senator Mercer and Senator Munson, as well as all our staff who work so well together to produce an inspiring and memorable event each year. It is needed, and it is indeed an honour and a privilege for me to be involved with such an incredible team and, of course, a great celebration.

[*Translation*]

MILITARY AND VETERANS HEALTH RESEARCH INSTITUTE

Hon. Roméo Antonius Dallaire: Honourable senators, I want to draw to your attention a conference that was held a few weeks ago regarding the creation of the Canadian Institute for Military and Veteran Health Research. This institute was created to meet the mental health needs of our veterans and their families. Before 1997, Canada had only a small clinic that took care of wounded soldiers and has had no research entity since the Korean War. There was a growing risk that we would never have an entity to conduct research on wounded soldiers and their families, and that we could also end up without any research to anticipate potential psychological wounds, reduce their impact in a theatre of operations and see how to fix the problem, by caring for soldiers and their families when the soldiers are wounded.

A Canada-wide network of several universities was formed to create this institute. It was founded by Queen's University and the Royal Military College in Kingston. Participating university members include the University of Alberta, Dalhousie University, the University of Calgary, Université Laval, the University of Manitoba, Memorial University, Mount Saint Vincent University, the Université de Moncton, the University of New Brunswick, the University of Ottawa, the University of Prince Edward Island, the University of Regina, Ryerson University and the University of Western Ontario.

[*English*]

We are expecting the University of Sherbrooke to soon also join in the fray of attempting to bring this to Canada, which is the only country in NATO that has absolutely no research capability on mental injuries that are incurred by soldiers through operations and the impact on their families.

[*Translation*]

I would like to share some statistics that I consider to be essential in this matter.

[*English*]

The forum with the second one now bringing a more mature evolution of the work, indicated and advocated that more life after service studies include all veterans, not just those who become Veterans Canada clients. To date, research on adjusting to civilian life after leaving the Canadian Forces suggests that 65 per cent have an easy transition and 25 per cent have a difficult transition. Furthermore, 75 per cent of those medically released from the Canadian Forces become Veterans Canada clients, and male veterans have a suicide rate 1.5 times that of the general population.

Honourable senators, I will end by saying that not only are these universities engaged and committing research funds, but also Veterans Canada and National Defence have joined fully and are preparing funding to support this initiative. This has been long in coming and certainly will prevent casualties in the future.

SENATE FINANCIAL STATEMENTS AND AUDIT 2010-11

Hon. David Tkachuk: Honourable senators, last week I had the honour of tabling the annual financial statements and audit for the year ending March 31, 2011. This was the second tabling of such an audit, the first taking place for the year ending March 2010.

I am pleased to note that for the second year running these audits have resulted in a clean audit opinion. This accomplishment denotes with reasonable assurance that the financial statements present fairly and in all material respects the financial position, results of operations and cash flows of the Senate of Canada.

These financial statements, presented by the Clerk and the Director of Finance, fulfill the requirements of the Senate Administrative Rules that the Clerk shall prepare and lay before the Senate annually a statement of accounts of the Senate. While the financial statements are presented in the format recommended by the Treasury Board Accounting Standards, the Senate of Canada opted to use generally accepted accounting principles for the public sector as the basis of these statements.

The reason for that is generally accepted accounting principles were felt to be more acceptable to the general public as they are prepared by an independent party, the Canadian Institute of Chartered Accountants, and respect rigorous corporate standards.

Once again, KPMG praised the Senate administration for its commitment to financial transparency and accountability, noting the culture of diligence that has been established in the financial processes.

Honourable senators, I invite all of you to join me in thanking the Clerk, Gary O'Brien, the Director of Finance, Nicole Proulx, and their team for their excellent work in producing the Senate of Canada financial statements for the fiscal year March 31, 2011. Most of all, I want to thank Senators George Furey and Terry Stratton, my predecessors as Chair and Deputy Chair of the Internal Economy Committee, for starting the process, as well as all those members who served on the committee over those two years.

HMCS *CHARLOTTETOWN*

Hon. Catherine S. Callbeck: Honourable senators, it gives me great pleasure to rise today in recognition of the crew of HMCS *Charlottetown*. This group of brave men and women returned from Libya in September, where they participated in Operation Mobile and helped the NATO-led effort to enforce a no-fly zone over the country. As the ship's sponsor, I am always pleased when HMCS *Charlottetown* returns home safe and sound.

HMCS *Charlottetown* began its deployment to Libya in March, with 235 crew members on board. The mission was a dangerous one. The ship was fired on twice while taking part in this operation. In the first incident, the frigate came under artillery and machine gun fire when it helped thwart an attack by Libyan forces.

In late May, 12 BM-21 rockets were fired in the direction of the ship from the Libyan coast. Thankfully, no one was hurt and there was no damage in either incident.

Once again, the commander and crew of HMCS *Charlottetown* have demonstrated unparalleled professionalism and commitment to the task at hand. Throughout the course of this dangerous mission they showed valour, expertise and dedication. I am sure their efforts to protect the Libyan people will not be soon forgotten.

In addition to their duties, the crew has long been involved in charity work on Prince Edward Island. Every summer they come to the province and carry out the "Run 4 Wishes" fundraising event for the Children's Wish Foundation. They literally run across the province, raising money, and towns and communities hold events along the way. However, since the frigate was deployed to Libya during this past summer, the "Run 4 Wishes" was postponed. It just took place in late October. I am pleased to say that participants raised about $40,000 to help grant wishes for children affected with a high risk, life-threatening illness.

• (1420)

Honourable senators, the crew of HMCS *Charlottetown* has always made Islanders proud. I would like to thank Commander Skjerpen, Commander Carter and their crew for their continued service to this country and to its people. Each and every crew member is an integral part of Canada's long-standing commitment to peace and security in the world. They deserve our grateful appreciation, and I wish them all the best for the future.

Hon. Senators: Hear, hear.

[*Translation*]

AWARENESS CAMPAIGN ON VIOLENCE AGAINST WOMEN

Hon. Rose-Marie Losier-Cool: Honourable senators, I wish to congratulate the Inter-Parliamentary Union and the Assemblée parlementaire de la Francophonie on their awareness campaign on violence against women, which is being held from November 25 to December 10, 2011.

Despite all our best intentions, this violence continues around the globe, including here in Canada, where we witnessed the massacre at Montreal's École polytechnique, where Aboriginal women are too often targeted, and where so-called "honour" killings still take place, making a mockery of our laws and our values.

We, as parliamentarians, have a role to play in the fight against this form of violence. We must raise this issue publicly, create laws, implement those laws and take part in international initiatives, by signing conventions, for instance.

The most well-known such convention is the United Nations Convention on the Elimination of All Forms of Discrimination Against Women, often referred to as CEDAW, which Canada ratified in 1981. Our country reports regularly to the United Nations on the implementation of CEDAW. Despite certain promising federal initiatives, the most recent report, from 2007, unfortunately confirms the absence of a national strategy to prevent violence against women. Such a strategy was unanimously called for in the other place in November 2008, but we have yet to see one introduced.

Parliamentarians who are members of the Inter-Parliamentary Union and the Assemblée parlementaire de la Francophonie help promote CEDAW within the member countries of those two international associations. The Inter-Parliamentary Union has organized this awareness campaign from November 25 to December 10. In addition, since 2004, the Assemblée parlementaire de la Francophonie, in partnership with the International Organization of la Francophonie, has been holding seminars on CEDAW every year in different countries.

Each seminar is led by the APF Network of Women Parliamentarians and presents CEDAW to parliamentarians in the host country and surrounding countries, suggesting mechanisms they can use to implement CEDAW in their countries.

I would like to thank Abdou Diouf, Secretary General of the OIF, who created this partnership with the APF and who has made it possible to hold these seminars. Mr. Diouf has always been a strong advocate for women's rights in member countries of la Francophonie. As a result, the APF Network of Women Parliamentarians has provided training to parliamentarians from West Africa, Central Africa, South-east Africa, the Maghreb, the Caribbean and Eastern Europe. The parliamentarians who have attended these seminars are now able to identify the triggers of violence against women, know what to do to avoid or eliminate these triggers and know how to suppress this violence when it occurs.

All that remains is to wish them every success in their countries.

[*English*]

THE HONOURABLE DAVID BRALEY

CONGRATULATIONS ON FOOTBALL SUCCESSES

Hon. Larry W. Campbell: Honourable senators, this past weekend in the city of Vancouver, we had two football games played. On Friday night, we saw McMaster take on Laval in a game which has been described as probably the most exciting football game ever seen in college football. McMaster, for the first time in its history, was successful and won this game in double overtime.

On Sunday night, we saw the B.C. Lions take on the Winnipeg Blue Bombers. The B.C. Lions were successful over the Winnipeg Blue Bombers, but perhaps the most important thing was that it was one man and two teams: the Honourable Senator Braley, a well-known benefactor of McMaster University and the owner of the B.C. Lions, the Grey Cup champions for this year.

Hon. Senators: Hear, hear!

Senator Campbell: It is no understatement on my part — and I am not known for understatements — that without Senator Braley, it is doubtful that there would be a team in British Columbia. He stepped up a number of years ago, put his money where his mouth is, helped us and kept us going. It was a proud moment to be able to see him hoist that cup.

Before I sit down, next year will be the one hundredth anniversary of the Grey Cup. What a surprise, Senator Braley owns the Toronto Argonauts. Guess where we will have that game. I invite all Canadians to celebrate the one hundredth anniversary of the Grey Cup.

Thank you, honourable senators.

[*Translation*]

ROUTINE PROCEEDINGS

CANADIAN HUMAN RIGHTS COMMISSION

SPECIAL REPORT TABLED

The Hon. the Speaker: Honourable senators, pursuant to section 61(2) of the Canadian Human Rights Act, I have the honour to table, in both official languages, the special report entitled *Human Rights Accountability in National Security Practices*.

[*English*]

RULES, PROCEDURES AND THE RIGHTS OF PARLIAMENT

SECOND REPORT OF COMMITTEE PRESENTED

Hon. David Braley, Deputy Chair of the Standing Committee on Rules, Procedures and the Rights of Parliament, presented the following report:

Tuesday, November 29, 2011

The Standing Committee on Rules, Procedures and the Rights of Parliament has the honour to present its

SECOND REPORT

Pursuant to Rule 86(1)(d)(i), your committee has reviewed provisions in the *Rules of the Senate* relating to leaves of absence and suspensions, and recommends the following:

1. That rule 139 be amended by the addition of a new subsection (2.1) as follows:

"Suspension of Allowances

(2.1) Where a finding of guilt is made against a Senator who has been charged with a criminal offence that was prosecuted by indictment, the Standing Committee on Internal Economy, Budgets and Administration may order the withholding of the payable portion of the sessional allowance of the Senator in accordance with rule 138 as if the Senator were suspended."; **and**

2. That rule 140 be amended:

(a) by replacing subsection (1) with the following:

"Notice of charge

140. (1) As soon as practicable after a Senator is charged with a criminal offence for which the Senator may be prosecuted by indictment, either:

(a) the Senator shall notify the Senate at the first possible opportunity, in a writing signed by the Senator, delivered to the Clerk of the Senate and laid by the Clerk upon the Table; or

(b) the Speaker shall lay upon the Table such proof of the charge as the court may provide.";

(b) by replacing subsection (2) with the following:

"Leave of absence for accused Senator

(2) When notice is given under subsection (1) the Senator charged is granted a leave of absence from attendance to the Senate as of the time that the notice is laid upon the Table."; **and**

(c) by adding a new subsection (2.1) as follows:

"Senate resources in case of leave of absence

(2.1) If a Senator is granted a leave of absence under subsection (2), the Standing Committee on Internal Economy, Budgets and Administration may, as it considers appropriate in the circumstances, suspend that Senator's right to the use of some or all of the Senate resources otherwise made available for the carrying out of the Senator's parliamentary functions, including funds, goods, services, premises, moving, transportation, travel and telecommunications expenses.".

Respectfully submitted,

DAVID BRALEY
Deputy Chair

The Hon. the Speaker: Honourable senators, when shall this report be taken into consideration?

(On motion of Senator Braley, report placed on the Orders of the Day for consideration at the next sitting of the Senate.)

• (1430)

[*Translation*]

FAMILY HOMES ON RESERVES AND MATRIMONIAL INTERESTS OR RIGHTS BILL

FOURTH REPORT OF HUMAN RIGHTS COMMITTEE PRESENTED

Hon. Mobina S. B. Jaffer, Chair of the Standing Senate Committee on Human Rights, presented the following report:

Tuesday, November 29, 2011

The Standing Senate Committee on Human Rights has the honour to present its

FOURTH REPORT

Your committee, to which was referred Bill S-2, An Act respecting family homes situated on First Nation reserves and matrimonial interests or rights in or to structures and lands situated on those reserves, has, in obedience to the order of reference of Tuesday, November 1, 2011, examined the said Bill and now reports the same with the following amendments:

1. *Page 15, clause 17*: Replace lines 3 and 4 with the following:

"section 16, and may extend the duration of the order beyond the period of".

2. *Page 15, clause 18*: Replace lines 23 and 24 with the following:

"revoke the order, and may extend the duration of the order beyond".

Your committee has also made certain observations which are appended to this report.

Respectfully submitted,

MOBINA S. B. JAFFER
Chair

(*For text of observations, see today's* Journals of the Senate, *Appendix B, p. 681.*)

The Hon. the Speaker: Honourable senators, when shall this report be taken into consideration?

(On motion of Senator Jaffer, report placed on the Orders of the Day for consideration at the next sitting of the Senate.)

[*English*]

MARKETING FREEDOM FOR GRAIN FARMERS BILL

FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-18, An Act to reorganize the Canadian Wheat Board and to make consequential and related amendments to certain Acts.

(Bill read first time.)

The Hon. the Speaker: Honourable senators, when shall this bill be read the second time?

(On motion of Senator Carignan, bill placed on the Orders of the Day for second reading two days hence.)

SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO EXTEND DATE OF FINAL REPORT ON STUDY OF THE PROGRESS IN IMPLEMENTING THE 2004 10-YEAR PLAN TO STRENGTHEN HEALTH CARE

Hon. Kelvin Kenneth Ogilvie: Honourable senators, I give notice that, at the next sitting of the Senate, I will move:

> That notwithstanding the Order of the Senate adopted on June 23, 2011, the date for the presentation of the final report by the Standing Senate Committee on Social Affairs, Science and Technology on the progress in implementing the 2004, 10-Year Plan to Strengthen Health Care, be extended from December 31, 2011 to March 31, 2012.

[*Translation*]

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO MEET DURING SITTING OF THE SENATE

Hon. Kelvin Kenneth Ogilvie: Honourable senators, I give notice that, at the next sitting of the Senate, I will move:

> That the Standing Senate Committee on Social Affairs, Science and Technology have the power to sit on Friday, December 2, 2011, even though the Senate may then be sitting, and that Rule 95(4) be suspended in relation thereto.

[*English*]

THE SENATE

NOTICE OF MOTION TO URGE THE PROVINCE OF ONTARIO TO INSTITUTE A MORATORIUM ON THE APPROVAL OF WIND ENERGY PROJECTS IN THE UPPER ST. LAWRENCE-EASTERN LAKE ONTARIO REGION

Hon. Bob Runciman: Honourable senators, I give notice that, at the next sitting of the Senate, I will move:

> That, in the opinion of the Senate, the province of Ontario should institute a moratorium on the approval of wind energy projects on islands and onshore areas within three kilometres of the shoreline in the Upper St. Lawrence-Eastern Lake Ontario region, from the western tip of Prince Edward County to the eastern edge of Wolfe Island, until the significant threat to congregating, migrating or breeding birds and migrating bats is investigated thoroughly and restrictions imposed to protect internationally recognized important bird areas from such developments.

HUMAN RIGHTS

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO STUDY ISSUE OF CYBERBULLYING

Hon. Mobina S. B. Jaffer: Honourable senators, I give notice that, at the next sitting of the Senate, I will move:

> That the Standing Senate Committee on Human Rights be authorized to examine and report upon the issue of cyberbullying in Canada with regard to Canada's international human rights obligations under Article 19 of the United Nations *Convention on the Rights of the Child*;
>
> That, notwithstanding Rule 92, the Standing Senate Committee on Human Rights be empowered to hold occasional meetings in camera for the purpose of hearing witnesses and gathering sensitive evidence; and
>
> That the committee submit its final report to the Senate no later than October 31, 2012, and that the committee retain all powers necessary to publicize its findings for 180 days after the tabling of the final report.

[*Translation*]

EUTHANASIA AND ASSISTED SUICIDE

NOTICE OF INQUIRY

Hon. Andrée Champagne: Honourable senators, I give notice that, two days hence:

> I will call the attention of the Senate to euthanasia and assisted suicide.

[*English*]

CANADIAN WHEAT BOARD

PRESENTATION OF PETITION

Hon. Terry M. Mercer: Honourable senators, I have the honour to present a petition from over 350 residents of the province of Saskatchewan concerning the Canadian Wheat Board, urging the federal government to respect the vote of farmers who have voted to keep single-desk marketing.

QUESTION PERIOD

ABORIGINAL AFFAIRS AND NORTHERN DEVELOPMENT

SERVICES IN ATTAWAPISKAT FIRST NATION

Hon. Sandra Lovelace Nicholas: Honourable senators, my question is directed to the Leader of the Government in the Senate. On October 28, the First Nations community of Attawapiskat declared a state of emergency because of its deplorable conditions. With winter approaching and temperatures dropping, some families have been living in tents and sheds without heat, electricity, running water or adequate sanitation.

The government finally heard the community's cry for emergency help last week, with an announcement that the Red Cross would be sending a team to provide immediate humanitarian assistance.

Will the Harper regime ensure that all the families in this community are provided with the warm, safe shelter they deserve this winter?

• (1440)

Hon. Marjory LeBreton (Leader of the Government): Honourable senators, obviously our government is deeply concerned about the situation in Attawapiskat. People there are living in dire conditions.

Minister Duncan spoke with his officials on Monday when they were in the community. As a top priority, they are focused on ensuring that community members have warm, dry, safe shelters, especially now as we are approaching winter. Since coming to office, our government has invested over $92 million in Attawapiskat. We are working with the community at the moment to investigate why this First Nations community is facing so many challenges, given the significant amount of money that was sent their way for housing, infrastructure, education and administration.

This is a dire situation, but clearly something is seriously wrong when you factor in the amount of money that has been spent since we have come to office. Something is not working here. Obviously, providing vast amounts of money has not helped resolve the situation.

Senator Lovelace Nicholas: Honourable senators, let us remember that First Nations people did not ask to be put on reserves. This situation will return again and again unless deep-rooted problems in the community are treated in more meaningful ways, such as poverty and chronic underfunding of infrastructure, health care and education. What is the government's long-term plan to improve conditions in this community?

Senator LeBreton: Honourable senators, this is a serious situation. We faced this situation in another community a few years ago. An inquiry was conducted by a former minister of the Ontario government, who made the recommendation that this other community be relocated. Certainly that was the optimum situation that would have improved the lives of the people in that particular situation.

In that case, the people who lived on the reserve opted to stay on the lands that they were on. This is not an easy situation to deal with.

As I mentioned a moment ago, the facts in this case are that the government has invested over $92 million since we came to office. These funds — working with the leadership — hopefully would have contributed significantly to housing, infrastructure, education and administration. This is a small, remote community, but when you look at this large sum of money, that works out to $52,000 for each man, woman and child who lives on this reserve.

Clearly, the people who are living there have to be provided with warm shelter, especially with the approaching winter. However, equally clearly, the minister and departmental officials will have to work with the leadership of this reserve as well. Providing money does not necessarily solve the problem.

Hopefully the departmental officials who are in the area and working on the ground at the moment will come to some long-term resolution. Spending this kind of money for what was supposed to be proper housing, infrastructure, education and administration of the reserve has not worked. They will have to go back to the drawing board.

Senator Lovelace Nicholas: Honourable senators, I agree there is much work to do. However, I believe in my heart that if it was any other community or race the help would have been there within minutes.

Senator LeBreton: Honourable senators, I challenge that. I think when you look at the commitment the government has made to our First Nations and Aboriginal peoples in a host of areas — whether education, training or water quality — I reject absolutely that the conditions these unfortunate individuals find themselves in have anything to do with the attitude of the government. On the contrary, the government has expended considerable resources to improve the living conditions in this community, to no avail.

HUMAN RESOURCES AND SKILLS DEVELOPMENT

POST-SECONDARY STUDENT SUPPORT PROGRAM

Hon. Claudette Tardif (Deputy Leader of the Opposition): Honourable senators, currently the federal government provides financial assistance to First Nations and Inuit students through the Post-Secondary Student Support Program, which was created to alleviate the financial barriers faced by Aboriginal students. Unfortunately, increases in funding to this program are currently capped at a maximum of 2 per cent annually. As a result, funding has been unable to keep up with increased living costs and tuition fees. Additionally, according to the Assembly of First Nations and many student groups that we have met across the country, the 2 per cent cap means that fewer eligible applicants receive funding every year. From 1997 to 2009, the number of annual recipients has dropped from 23,000 to under 19,000 students.

In light of the fact that increasing access to post-secondary education will help close the employment and earning gaps between the Aboriginal and non-Aboriginal population, will the government eliminate the 2 per cent cap on this program to ensure that the educational needs of all Aboriginal Canadians are met?

Hon. Marjory LeBreton (Leader of the Government): I thank Senator Tardif for the question. Of course, I will not accept the premise of her question. With regard to Aboriginal education, we are working with willing partners to improve the educational outcome of First Nations across Canada. That is why we made education a key priority in our joint action plan with the Assembly of First Nations. As well, the National Panel on First Nation Elementary and Secondary Education, which was launched just last June, is continuing its hard work. We are committed to a new approach to providing support to First Nations and Inuit students for post-secondary education that is effective, accountable, and coordinated with other federal student support programs. We will continue to listen to interested parties on ways to help First Nations and Inuit students receive the support they need to participate in post-secondary education. We expanded our partnership with the provinces, First Nations and Inuit, through tripartite agreements on education, and established the Education Partnerships Program and the First Nation Student Success Program. In the last two years, the government has provided over $173 million to build new schools or renovate First Nations schools under the Economic Action Plan.

[*Translation*]

Senator Tardif: I have a supplementary question. My question for the Leader of the Government was very specific: more than 3,000 eligible Aboriginal students were denied funding in 2008 and there is currently a backlog of more than 10,000 eligible students.

A recent report raised in this chamber by Senator Dyck shows that filling the educational gap between Aboriginals and non-Aboriginals for the current generation of students could generate savings of up to $90 billion in Saskatchewan alone.

Why does the government not commit to eliminating the 2 per cent ceiling in order to help the First Nations and the Inuit?

That was my question.

• (1450)

[*English*]

Senator LeBreton: Honourable senators, I believe I answered the question in response to the first question. There has been significant work done between the government and the leadership of the First Nations community. Significant amounts of money have been put into secondary and post-secondary education. I do believe that the government, especially as we work in remote communities in the North, is making every effort to provide education so that young Aboriginal students, whether living on-reserve or off-reserve or in the North, have access to education, as a result of which they will have access to good quality jobs.

Senator Tardif: Can I understand by the answer that the leader will not be removing the 2 per cent cap?

Senator LeBreton: The senator can understand from my answer that we will be working in cooperation with the AFN in our ongoing efforts to improve the situation with regard to education for our Aboriginal youth.

Hon. Patrick Brazeau: Honourable senators, my question is for the Leader of the Government in the Senate. Would she be able to tell us who in the mid-1990s introduced the 2 per cent funding cap and, further, would she be able to offer perhaps some commentary as to why between 1996 and 2006 that funding cap was never lifted?

Senator LeBreton: I thank the honourable senator for the question. I can only surmise, since we were not the government between 1996 and 2006, that it was the previous government.

[*Translation*]

ABORIGINAL AFFAIRS AND NORTHERN DEVELOPMENT

SERVICES IN ATTAWAPISKAT FIRST NATION

Hon. Marie-P. Poulin: Honourable senators, my question is for the Leader of the Government in the Senate. Senator Lovelace Nicholas asked a very important question. She emphasized the urgency of the situation. I listened attentively to the leader's response in which she spoke about long-term solutions.

Can we come back to the senator's original question? This is an urgent situation. The head of the Sudbury nurses association called upon the federal government to take immediate action. In the past, there have been examples of times when the government reacted immediately to urgent situations even at the international level.

Senator Lovelace Nicholas asked what the government intends to do right now to resolve this situation, which is a health crisis, a human crisis, a social crisis and an economic crisis.

[*English*]

Hon. Marjorie LeBreton (Leader of the Government): I can only surmise that the senator was not paying much attention to my first answer, because I offered at the end of my remarks that obviously the significant sums of money that have been expended in this community have not resolved the problem, which of course would indicate that officials and the leadership in the community will have to go back and assess why this is the case.

I absolutely did not say that we were doing nothing and that only long-term solutions were available. I did say, and I repeat, that there are officials from Aboriginal Affairs and Northern Development Canada on the ground as we speak dealing with the community and they are focused — and I remember using the words "as a top priority" — on ensuring that the community members are provided as a top priority right now warm, dry and safe shelter, especially as we are entering into the harsh winter months.

[*Translation*]

Senator Poulin: Honourable senators, can the leader provide us with written assurance from the federal officials responsible for this matter that immediate solutions will be found to remedy this crisis, as she said?

[*English*]

Senator LeBreton: I take that as a great vote of non-confidence in our hard-working officials in the Department of Aboriginal Affairs that the senator would not accept my word that they are up there dealing with the situation as we speak to ensure that this community has dry, warm and proper shelter for the winter. In response to the request for written assurances, I have given the honourable senator my assurances.

The Minister of Aboriginal Affairs, Mr. Duncan, has given assurances publicly and he is probably being asked about this in the other place as well, but if it would help, at the end of the day, once they have completed their work there and have provided shelter for these individuals — once they have better things to do, since they are working on the ground, rather than producing written reports — I will ask them at the end of their work if they would provide a follow-up in writing.

Senator Poulin: Honourable senators, I do not know how my question was translated, but I am not making this inquiry personal. I am talking about an issue that is beyond that, not only geographically, but also, I think, humanly.

I am referring to the fact that, as parliamentarians, we are responsible for the regions we represent and for the minorities we represent. Senator Lovelace Nicholas raised such an important issue. I am trying to ensure that we are fulfilling our responsibility as representatives of regions and of minorities, and that the required service for an urgent situation is being provided. I am sure that the leader can furnish us that response, even in written form, because we know that she shares the same table as the Minister of Aboriginal Affairs.

Senator LeBreton: Honourable senators, all individuals, no matter their political stripe, are horrified at the situation that they see unfolding in Attawapiskat. I started by saying, honourable senators, that we are deeply concerned about the situation and that Minister Duncan has officials from the Department of Aboriginal Affairs on the ground as we speak working with the community. Their number one job at this moment is what they are totally focused on. We will have to deal with the other issues that I was alluding to earlier. They are focused completely as a top priority in ensuring that the community members have safe, warm, dry living conditions. No one disagrees with that. This is what we all want to see and this is what they are working very hard to achieve.

At the end of the day, once they have come back and established that the people there are living in safe conditions, I will be very happy to ask them to do a follow-up written report as to what they found, how they dealt with the issue, how they resolved the situation and what the situation is once their work is complete.

HUMAN RESOURCES AND SKILLS DEVELOPMENT

EMPLOYMENT INSURANCE PROCESSING CENTRES

Hon. Catherine S. Callbeck: Honourable senators, my question is directed to the Leader of the Government in the Senate. As I mentioned before, this government has announced that it will close the only Employment Insurance processing centre in my province.

I previously asked about the criteria used by the government to decide which centres would be closed. The answer I got was very general. It stated:

> There will be changes to the number of employees involved in EI processing as a result of these measures. However, no further details are available at this time as we are focused on rolling this initiative out to Service Canada employees and beginning the work of planning for this implementation.

• (1500)

I repeat, "beginning the work of planning for this implementation."

My question is this: Is it possible that the government decided to close 98 processing centres, impacting hundreds of people, without any plan for implementation? When can we expect to get some details on the impact on employees?

Hon. Marjory LeBreton (Leader of the Government): Honourable senators, I have answered this, and I do believe, although I could be wrong, that we have provided the honourable senator with a long written response on this matter as well.

We are committed, as a government, to providing timely service to Canadians who access the EI system and all systems through Service Canada. We are moving from a paper-based system to a more technologically advanced system. No Service Canada offices are closing as a result of this initiative, and there will be no impact on in-person services offered by Service Canada.

Clearly, the government is committed to timely and quick service to people who are making themselves available, whether it is EI or other services of the government. I believe, honourable senators, that the government has no intention to cut back on services provided to Canadians in any way. We are simply moving from a paper-based situation to a more technologically driven situation.

Senator Callbeck: The leader did provide a response, and I read a paragraph out of that; but as I said, it was very general. It mentioned "beginning the work of planning for this implementation." The leader said they are going to close 98 processing centres. My question was when can we expect details on the impact on the employees.

Senator LeBreton: The fact of the matter is we are not cutting services to Canadians. I would have to get specific information with regard to the number of person years or employees involved, but I believe that as the government goes through the process of

upgrading its systems, providing more timely service to Canadians and Canadian taxpayers — and offices are not being closed — obviously some personnel sometimes are impacted. I do not have information about whom or how many personnel will be affected.

I can only say, as is said in that answer — and I thank the honourable senator for referring to it — that the process is under way; it is not completed. I would urge a little patience until the department completes its work in this regard.

Senator Callbeck: That is certainly not very comforting for the people working in those 98 processing centres that will be closed. This closure on Prince Edward Island will have a tremendous negative effect because it is a rural area. In fact, you could say all Prince Edward Island is.

To add insult to injury, last week the Minister of Human Resources and Skills Development wrote a letter to the editor of an Island newspaper that suggested that the productivity and performance was low at that centre in Montague. The union has stated the Montague claims processing centre is one of the best in the country, and it consistently exceeds the national average in production. The minister really insulted the employees by suggesting otherwise.

Will the leader ask the minister to apologize for her remarks to these dedicated, hard-working people at the Employment Insurance processing centre in Montague?

Senator LeBreton: If one quotes a union official, I say to myself, what would one expect them to say? Obviously they are representing people who are members of the union and work for them.

I absolutely will not ask my colleague, the Honourable Diane Finley, to apologize. She wrote a letter based on some information she had, so I will simply make a commitment that I will seek her advice to provide me with the basis on which she did so and the information that she used to write the letter in the first place.

AGRICULTURE AND AGRI-FOOD

CANADIAN WHEAT BOARD RECORDS

Hon. Pana Merchant: Honourable senators, my question to the Leader of the Government in the Senate addresses whether Canadian Wheat Board records will be destroyed by the government.

In a public letter to Minister Toews, the Association of Canadian Archivists formally chastised the government for breaking the law by destroying records for political expediency and disobeying legislation which, in their words,

> . . . sets a very dangerous precedent for future legislation and record-keeping practices.

Both the Information Commissioner, Suzanne Legault, and the Privacy Commissioner, Jennifer Stoddart — two officers of Parliament — have publicly warned that the government's intention to destroy long-gun registry records for political expediency would break two laws: the Access to Information Act and the Library and Archives of Canada Act.

The government now is steamrolling Bill C-18 to dismantle the Canadian Wheat Board and once again breaking the law, as expressed in sections 32 and 33 of the Canadian Wheat Board Act. Does the government also intend to break the law by destroying the Wheat Board records, making it impossible for farmers, when this government is defeated, to once again have the benefit of an effective Wheat Board?

Hon. Marjory LeBreton (Leader of the Government): First, with regard to Bill C-19, the long-gun registry, and the comments the honourable senator read into the record, any claims that Bill C-19 is breaking the law are absolutely false. People have opinions, but we have made it very clear with regard to the long-gun registry that we do not and will not support the creation of another registry through the back door.

By using the words of those two individuals and then making the quantum leap over to the situation with the Canadian Wheat Board, I have no idea what the honourable senator is talking about. There has been no suggestion whatsoever.

I hasten to point out to the honourable senator that the Wheat Board will still be in existence. Farmers simply will be given a choice. Their choice is to market their own product or go through the single-desk system of the Wheat Board.

I could hardly think that when our legislation passes through Parliament and is given Royal Assent, an entity that we have not abolished would somehow or other then have its records mysteriously disappear. It makes no sense.

[*Translation*]

DELAYED ANSWER TO ORAL QUESTION

Hon. Claude Carignan (Deputy Leader of the Government): Honourable senators, I have the honour to table the answer to the oral question raised by Senator Callbeck on June 8, 2011, concerning passport services in Prince Edward Island.

FOREIGN AFFAIRS

PASSPORT SERVICES IN PRINCE EDWARD ISLAND

(Response to question raised by Hon. Catherine S. Callbeck on June 8, 2011)

> Service Canada and Passport Canada were pleased to expand passport services to PEI residents in January 2011 by enabling applicants to retain their citizenship documents when submitting a passport application in person at a Service Canada Centre in PEI. This new service was introduced to make it easier for PEI residents to apply for a passport.

Providing passports on an urgent basis requires a complex security and passport production capability. To issue these, an office must have secure processing and printing equipment, as well as the ability to conduct security, identity and entitlement reviews. Currently, only the Department of Foreign Affairs (Passport Canada is a special operating agency of this department) has the authority to verify an individual's entitlement to, produce and issue a Canadian passport. This authority is not delegated to any other department.

Urgent services are available to Canadians only at full-service Passport Canada offices that have the infrastructure to do so. To best meet the urgent travel needs of Canadians, these offices are located in large urban centres where the demand for urgent service is high.

As a self-funded, cost-recovery agency, Passport Canada continually strives to balance security and service delivery with cost-effectiveness to keep the passport fee as low as possible.

• (1510)

[*English*]

ORDERS OF THE DAY

NATIONAL DEFENCE ACT

BILL TO AMEND—THIRD READING

Hon. Claude Carignan moved third reading of Bill C-16, An Act to amend the National Defence Act (military judges).

Hon. George Baker: Honourable senators, I have just a couple of words on this bill. I think that the committee did an excellent job on this bill. It was a very complex bill, although it was short in character and short in words.

In the other place, in the House of Commons, there was only one witness called and that was the Assistant Judge Advocate General. That was it. At the Senate committee, we heard from the Minister of National Defence; we heard from the Judge Advocate General, himself; we heard from the Assistant Judge Advocate General; and we heard from a professor from a university in Western Canada who was knowledgeable about the legislation. One could say that the Senate has fulfilled that function of examining the bill thoroughly.

Unfortunately, honourable senators, many of us do not agree with the substance of the bill, but we are supporting the bill. That sounds like a strange thing to say, but the government is in a bit of a bind here. It must do something to respond to a decision of the Court of Appeal that the government pass legislation like this by December 2.

Honourable senators, it sets a mandatory retirement age when every provincial human rights act in Canada has been amended to eradicate a mandatory retirement age. This mandatory retirement age is set at the age of 60 for all military judges.

As was explained in the committee, and all of the members would verify this, the judge must retire at age 60. Keep in mind that the present scheme is that they have to be reappointed every five years, and that is what had to be gotten rid of to satisfy the Charter.

The judges will have to retire at age 60. However, Senator Dallaire was absolutely correct the other day when this bill was introduced when he said that the retirement age under the act, if one is in the Armed Forces, is 55, but if one now wishes to serve until 60, because of an amendment made in 2004, one can apply to serve to age 60. Do not get into an argument about the military with Senator Dallaire. He knows more than any of us will ever know about the operations of Canada's military and the National Defence Act.

However, Senator Lang is correct as well in stating that the age is 60. For anyone who joined the military after 2004 or who requested to be continued in his or her position after age 55, the retirement age is 60, not the mandatory retirement age. As we heard in evidence, if you are in the Armed Forces, at age 60 and do not want to retire, then you can apply, under the *Queen's Regulations and Orders*, section 15.17, and get an extension if the Chief of the Defence Staff and the minister or someone acting on behalf of the minister concludes that your position is necessary to be continued.

The evidence was as follows. A military judge must retire at 60. That does not mean that he or she has to leave the military. They can stay on, but in a subordinate position, as far as salary is concerned, to that of a military judge. A military judge receives today about $220,000 a year. That is more than provincial court judges receive, but it is nothing close to what superior court judges receive, which is $260,000 a year. Each superior court judge in Canada receives that as a basic salary.

We have a situation where, as quite a few senators pointed out in the committee on questioning, military judges must retire at 60, but if they wish to remain in the military in another position, they can apply to continue on after that. That raises the very same constitutional issue that is at stake in this particular bill. That is, when one applies to continue, one is applying to one's superiors and, thereby, judicial independence may come into play. The argument could be presented.

What is interesting about this particular bill, honourable senators, is that Senator Gerstein on Thursday gave a great speech in this place on the government's Bill C-13 — that is, a great speech if you agree with the government. If you read it, it is a magnificent piece of prose. Let me just read a portion of Senator Gerstein's speech. He is a gentleman whom I have always admired through the years, and he is a great speaker. He stated:

> Bill C-13 will also remove the mandatory retirement age in areas under federal jurisdiction."

That is the other bill that is before this place removing the mandatory retirement age in areas under federal jurisdiction. Then he went on to say:

> This measure eliminates a form of legislated age discrimination. Not only are Canadians living for a greater number of years, but they are also enjoying an increasing number of productive years.

How right he is. Then he continued:

> Removing the mandatory retirement age allows aging Canadians to continue to contribute to our society and economy while also continuing to build their own prosperity.
>
> Unfortunately, honourable senators, and particularly for our colleague Senator Banks, I regret to inform you that this clause will not apply to senators.

Here we have two pieces of legislation before the Senate, one eliminating mandatory retirement ages and the other setting a mandatory retirement age. It is coincidental that it has happened this way.

What legislation was Senator Gerstein referring to in his magnificent address? The bill that he introduced must be several hundreds of pages long. At Part 12, for clauses 165 and 166 of that bill, the heading is "Canadian Human Rights Act." Then it states:

> 165. Subsection 9(2) of the *Canadian Human Rights Act* is repealed.
>
> 166. Paragraph 15(1)(c) of the Act is repealed.

His Honour will be interested in this because he has a great history with the human rights tribunals and commissions in Canada. He has been quoted in case law many times. We all congratulate him on the magnificent work he has done on human rights in this country.

• (1520)

The significance of the amendment is that the Canadian Forces Grievance Board addressed a request by a military officer that he did not want to retire at the age of 60. This was just recently. The way the system works is one applies to the grievance board, and if the board agrees and suggests a resolution, which in this particular case they did — I quote from "Case Summary" Case No. 2009-052:

> . . . the Board recommended that the Chief of the Defence Staff (CDS) refer the grievance file to the Director Human Rights and Diversity for restitution through an informal resolution. Alternatively, the Board recommended that the CDS direct the grievor's re-enrolment for the period requested.

The Chief of the Defence Staff, CDS, then brought down his decision. He says:

> The CDS was of the opinion that the Supreme Court's decision in McKinney in 1990, in which it was held that the mandatory retirement age is not discriminatory, remains the applicable jurisprudence, while the opposite and the more recent trend on the same matter was rendered by inferior courts.

Courts of Appeal, for example. Then it says that:

> . . . the CDS relied on . . . the Canadian Human Rights Act which states that where a regulation that provides for [compulsory retirement] age is enacted pursuant to said paragraph, the termination of employment upon reaching the maximum age will not constitute a discriminatory practice.

The Human Rights Act is being changed. Those sections referenced are being removed, according to the speech of Senator Gerstein. He is absolutely correct, and rightly so, honourable senators, as His Honour would recommend today.

To really illustrate the point, the Chief of the Defence Staff refers to the Supreme Court's decision in *McKinney* in 1990. Just imagine; all of those decisions were made on the Supreme Court of Canada decision 21 years ago. When one goes back to that decision, they will see that it involves Justice Bertha Wilson and Justice L'Heureux-Dubé. Cory J. was also there at that time, and they had a dissenting opinion.

To briefly quote one sentence at paragraph 385 of *McKinney v. The University of Guelph*, 1990, CarswellOnt 1019:

> Merit rather than age should be the governing factor.

At paragraphs 386 and 387:

> This raises several points with which I beg to differ. The value of tenure is threatened by incompetence, not by the aging process. Such incompetence can manifest itself at any stage, and the presumption of academic incapacity at age 65 is not well founded. If the abolition of mandatory retirement results in a more stringent meritocracy, tenure is not depreciated.
>
> The fear that aging professors will rest on their laurels and wallow in a perpetual and interminable quagmire of unproductivity and stagnation may be a real one.

It sounds like Senator Segal is talking.

> Yet it applies with equal force to younger tenured faculty as well.

At paragraph 391:

> To conclude that excellence in our educational institutions can only be maintained through the replacement of aging faculty with younger professors is overbroad. Professional calibre should be gauged on a meritocratic rather than a chronological basis. Employment opportunities for the young cannot be generated by using the elderly as exclusive sacrificial victims.

I do not think there is any such word as "sacriticial" in the English language, so they must have meant "sacrificial victims."

Then at paragraph 393:

> I do not disagree with my colleague La Forest J.'s assertion, at page 289, that —

— this is Justice La Forest in the majority —

> — "While the aging process varies from person to person, the courts below found on the evidence that on average there is a decline in intellectual ability from the age of 60 onwards."
>
> But this simple assertion does not, in my view, invariably lead to the conclusion that the cut-off age for any occupation or profession must be 65. This is precisely what age discrimination is all about. What then about federally appointed judges, whose retirement age is set at 75? What of self-employed business people, or politicians and heads of state, some of whom (including Sir Winston Churchill) serve their country well beyond the age of 65?

He was 80 when he retired as the Prime Minister the second time that he served.

> Declining intellectual ability is a coat of many colours — what abilities, and for which tasks? The discrepancies between physical and intellectual abilities amongst different age groups may be more than compensated for by increased experience, wisdom, and skills acquired over time.

Honourable senators, I think that says it all. That is Justice Bertha Wilson and Justice L'Heureux-Dubé in a dissenting opinion in that court judgment, which the Chief of the Defence Staff has been using up to two months ago in denying people their extension beyond the age of 60.

Honourable senators, I want to mention one further thing. This is on behalf of Senator Joyal, who cannot be here today. He wanted an opinion given to the Senate on the record.

As we know, Senator Joyal is a very learned gentleman. He not only has law degrees from Canada, but he has a Masters of Administrative Law from the University of Sheffield in the U.K., a degree in constitutional law from the London School of Economics, and he holds a degree in comparative law from Strasbourg in France. He refused to vote on this bill. His reason for not voting on the bill is that the Right Honourable Antonio Lamer, when he reviewed the National Defence Act in 2003, made a recommendation. I am quoting from page 21, where he says:

> I recommend that military judges be awarded security of tenure until retirement from the Canadian Forces, subject only to removal for cause on the recommendation of an Inquiry Committee.

Honourable senators, the next recommendation is the key one. It says in the introductory remarks, the head note, by Justice Lamer:

> The composition of the Inquiry Committee and the factors to be considered are set out in the *QR&O*. Such important matters should be spelled out clearly in primary legislation to avoid any real or perceived executive interference. The *NDA* should therefore be amended accordingly.
>
> (6) I recommend that the *National Defence Act* be amended to include the composition of the Inquiry Committee that may make a recommendation that a military judge be removed for cause and the factors that the Inquiry Committee must take into consideration when making such a recommendation.

• (1530)

The point is that this references another decision of the Court Martial Appeal Court called *R. v. Lauzon* (1998) CarswellNat 1810, in which the Court of Appeal said this at paragraph 30, and it is Senator Joyal's point:

> This process for removing military trial judges is in sharp contrast to the process for removing federally appointed judges where the power to order the holding of an inquiry or investigation lies with the Canadian Judicial Council which, pursuant to its by-laws, must exercise that power in full Council. The Council alone, the composition of which is not dominated by the Executive, may recommend to the Minister of Justice that a judge be removed from office, and the power to remove a judge lies with the Governor in Council, except if an address of the Senate or House of Commons or a joint address of both houses is required.

That is in the Judges Act. The decision goes on to say:

> Similarly, the *Quebec Courts of Justice Act* . . . provides substantial guarantees of independence concerning inquiries and removal for provincially appointed judges.

The point is that the court ruled that this should be in the act. What we heard from the evidence was that all of Justice Lamer's decisions would be incorporated in the end, either in the act or in the regulations. Unfortunately, the regulations are not good enough for Justice Lamer. This was Senator Joyal's point. I think it is a very good point that was made by Senator Joyal, and I think I have made it here today.

All in all, senators, the Senate did a very good job in examining this bill, and we all recommend that it be approved, with the full knowledge that very shortly we will have a bill called Bill C-13, which will eradicate what we are doing here today and make it unconstitutional to have a maximum retirement age for anyone under federal control.

Hon. Daniel Lang: Honourable senators, I would like to make a few comments at third reading of the bill. I agree with my good colleague Senator Baker on many aspects. However, there are

some other areas of concern, which have been covered in this bill, although the bill itself is very short. As the senator said, the witnesses we heard brought a lot of information for us to consider as we dealt with the issue of military judges.

It is important to note, honourable senators, that there are four military judges in Canada. They are appointed until the age of 60, and there is a reason for that. Once the witnesses gave those reasons to the committee, I think on balance the majority of members accepted the premise of why the age of 60 was brought forward.

There are a number of reasons. First, of course, in order to be a military judge you have to be a military officer. That is a prerequisite. You obviously have to be a member of the bar. That is a prerequisite.

However, I think the argument that trumps the position brought forward by my good colleague Senator Baker is that there is one other element that is important for the purposes of being appointed a military judge and retiring at the age of 60. There is a requirement for fitness. Fitness is required because those individuals, at any given time, with little notice, may be asked to go into a theatre of conflict and deal with a judicial matter that has to be dealt with immediately and efficiently.

The most important element of that fitness requirement, I would submit to all honourable senators, is that when they are in that theatre of conflict, not only are they responsible for themselves but also they may find themselves responsible for those who are accompanying them and who are part of the court that perhaps they are holding on that given day.

There is probably more reason for the age of 60 being a requirement today because in the conflicts we are becoming involved in we are now dealing with terrorism. We are dealing with situations where things become violent in what we believed to be a secure place that yet turns out not to be.

I submit to all honourable senators — and I know it was an oversight by my good friend Senator Baker not to raise this question — that the test of fitness, which is a requirement for the appointment of these judges, is an important issue.

Another point I would make, honourable senators, is that the age of retirement for judges across the country varies from 65 to 70, and then, of course, in the Supreme Court, age 75.

The other point I wish to make, to go a little further with the information that was provided to us, is that officers who attain the age of 60 can apply to stay in the forces longer. The question was put to the witnesses, and very seldom do they ever get any requests. Further, very seldom are those requests ever granted.

I wish to sum up, honourable senators, by saying that the test of fitness trumps the argument that has been put forward by my honourable colleague, and I believe it is a sound decision that is being taken by the house.

Hon. Roméo Antonius Dallaire: May I ask a question of Senator Lang?

Senator Lang: Yes.

Senator Dallaire: Senator Baker makes a very strong case. One would think it would be a reasonable case with regard to the employment and the independence of judges. As such, in fact, the law of the land has decreed that the argument with regard to the age of judges is a variable but certainly not one that is curtailed in the context of an organization such as the military. Therefore, the age of 60 is early, or young, and is not necessarily independent enough from the structures.

However, the honourable senator makes the other case, which I wish to question him on. A requirement that is fundamental to the forces is that every member must be able to serve in whatever conditions the country may put them in to accomplish the given mission. That is covered under the rule of Universality of Service. It has stood up in front of the Human Rights Commission, and it is a rule that is used to let veterans who are still serving be released because they simply cannot be employed universally.

The limitation of Universality of Service is also the argument for why we do not recruit into the forces people who have handicaps or are constrained physically or mentally, although the Canadian Charter of Rights and Freedoms says we should, under one of the four pillars, in any federal organization. Although the fitness is one dimension of this, the rule really is Universality of Service.

Did the honourable senator hear any concerns raised by anyone that should the judges go beyond the age of 60, it would put into question that fundamental rule of employment of members of the forces and, as such, would require a significant change to the QR&Os with regard to all the rest of the members of the forces?

• (1540)

Senator Lang: Honourable senators, I believe it was indirectly broached from the point of view of universality of service. The questions that were put to the witnesses were such that the age of 60 was determined to be reasonable because of what was expected of those individuals within the Armed Forces and what was expected of them to do on behalf of their fellow soldiers if put in a situation where they obviously do not want to be.

Honourable senators, I would say that it was broached but the question was not put directly.

Senator Dallaire: We have QR&Os, a set of laws under which the military operates and that are subordinate to the criminal law, so that justice can be applied expeditiously, in particular in theatres of operation. QR&Os allow us to function in theatres of operation, including Germany where we had our own legal system; and dependents are subject to that legal system, as Senator Baker raised. Civilians can fall under that law.

The courts have to be able to move to the theatre of operations and be present and be seen in an expeditious way in order to maintain morale, discipline and the operational capability of the forces.

I am going down your road but only to request of you whether the argument of universality of service, which should have been argued far more deliberately, was ever raised with you as an overriding factor ultimately going with the 60-year retirement age.

Senator Lang: That was definitely part of the argument put. I did not understand the first part of the question, initially. Certainly, the age of 60 was brought into account because these individuals at one time or another will be called into those theatres of conflict and be put in a situation where they have to move expeditiously. Things have to be done quickly, not just for the morale of the Armed Forces but also for the situations that they face. Subsequently, a certain level of fitness will be required, and I think it meets a reasonable test.

Senator Baker: Honourable senators, I have to agree with Senator Lang. He has introduced many bills over the years in a provincial legislature and knows well how to put the best foot forward on proposed legislation. I neglected to mention the requirement of all Armed Forces personnel, including judges, to be tested once a year for physical fitness and suitability so they can put a pack on their back and climb hills, et cetera.

However, would the honourable senator not agree that whereas a judge may not wish to continue beyond the age of 60, the problem is not with the judge but with the accused? We are here today because Corporal Leblanc was seated in a truck next to a hangar in Bagotville, Quebec. He had a submachine gun behind him and was watching the F-18 interceptor jets because there was a summit in Quebec City. Along came the sergeant in a truck and saw Corporal Leblanc close his eyes for 10 seconds. We are here because Corporal Leblanc argued that it is not right for a judge who is not impartial to convict him. Why was the judge not impartial? The judge can continue in his job and continue to have a job if his superiors like him. That is basically his argument.

I hope that Senator Lang agrees that it is not whether a judge will continue or whether there will ever be an application by a judge to continue beyond the age of 60. Rather, the problem is in the court when someone says you have to retire at 60 and you want to continue. You have to apply to the Chief of the Defence Staff and the minister to continue in your employment. It is the same type of test that brought us to where we are today. All of the precedents in law were mentioned. For example, in the *McKinney* case, a professor was trying to continue beyond the age of 65 at Guelph University. The other cases I mentioned were similar in character. Air Canada pilots have in their contract that they must retire at the age of 60. One pilot challenged the rule and said that he would like to continue beyond the age of 60. They did a survey of all pilots, and 75 per cent said, no, that they wanted what was in their collective agreement. However, the court ruled that it was discrimination and could not stand. That ruling was delivered this year in the Court of Appeal.

That is not what we are dealing with here. We are dealing with an Armed Forces person who is accused of an offence and argues that the judge should not be in his or her position because they lack judicial independence, which is based upon sufficiency of income and tenure of office until they no longer want to work. That is the basic principle.

Will Senator Lang agree that perhaps that is a greater problem constitutionally? We are dealing with the federal government and the Canadian Charter of Rights and Freedoms. The CCRF does not apply if it is not a government action, and section 15(1) of the Charter says that you cannot discriminate against someone on the basis of age. You cannot do that anymore in Canada. That is why the Government of Canada, in Bill C-13, is striking out those two sections in the Human Rights Act. Will Senator Lang not agree with me that there is another problem beyond that of the military judge, which rests with the accused in a court case who would argue the non-independence of the judge trying the case?

Senator Lang: Honourable senators, I would agree with my honourable colleague except that the premise that he has put forward to all honourable senators is wrong. The fact is that under the legislation we will be voting on in the next few minutes, it is mandatory that a judge retire at the age of 60; he or she cannot apply for an extension. Therefore, judicial independence is guaranteed from the perspective of the accused dealing with the court. The only military officers who can apply for an extension are those who are not judges. Although they can apply, very few do so and of those who apply, very few, if any, are accepted for an extension. I believe that Senator Baker would accept my argument.

Senator Baker: No.

The Hon. the Speaker: Are honourable senators ready for the question?

Hon. Senators: Question.

The Hon. the Speaker: It was moved by the Honourable Senator Carignan, seconded by the Honourable Senator Rivard, that this bill be read the third time. Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

(Motion agreed to and bill read third time and passed.)

• (1550)

FINANCIAL SYSTEM REVIEW ACT

BILL TO AMEND—SECOND READING—DEBATE ADJOURNED

Hon. Stephen Greene moved second reading of Bill S-5, An Act to amend the law governing financial institutions and to provide for the related and consequential matters.

He said: Honourable senators, I welcome this opportunity to initiate debate at second reading of Bill S-5, the Financial System Review Act. From the outset, I wish to note that this is mandatory legislation. The government reviews the statutes that govern federally regulated financial institutions every five years to ensure Canada remains a global leader in financial services and to maintain the safety and soundness of the sector.

For the information of senators, the most recent legislative review was completed in 2007, through Bill C-37 in the Thirty-ninth Parliament. The current five-year review was launched on

September 20, 2010, when the Minister of Finance invited the views of all Canadians on how to improve our financial system, through an open consultative process.

This act will help ensure Canadians continue to have a strong and secure financial system — one that has been a model for countries around the world during the recent global turmoil.

We did not have to nationalize, bail out or buy equity stakes in banks like the U.S., the U.K. and Europe. Our banks and financial institutions remain sound, well capitalized and less leveraged than their international peers. Indeed, for the fourth year in a row, Canada was recently ranked as having the soundest banks in the world by the World Economic Forum. This strength has been widely recognized by independent observers, both here and abroad. I will quote what a few of them are saying.

Noted *Toronto Sun* columnist Peter Worthington has said:

> Canada's banking system is now widely recognized as arguably the world's best. No Canadians fear for their deposits as many Americans do.

An Ottawa Citizen editorial declared:

> . . . our banking and financial system is the envy of the world. While the great money edifices of countries such as the U.S., Britain and Switzerland cracked at the beginning of the recession, Canadian banks stood firm.

We are also hearing the same accolades from outside of Canada. Here are just a select few, starting with the *Irish Times*, which pronounced recently:

> Canada's policy of fiscal discipline and strict banking supervision was a reason why it was one of the world's strongest performers during the recession.

The influential *Economist* magazine has proclaimed:

> Canada has had an easier time than most during the recent global recession, in part because of a conservative and well-regulated banking system.

Forbes magazine also adds:

> . . . with no bailouts, [Canada's financial system] is the soundest system in the world, marked by a steady and responsible continuation of lending and profits.

Finally, U.K. Prime Minister David Cameron, who has praised our system, says:

> In the last few years, Canada has got every major decision right. Look at the facts. Not a single Canadian bank fell or faltered during the global banking crisis . . . . Your economic leadership has helped the Canadian economy to weather the global storms far better than many of your international competitors . . . .

All of this did not happen by chance, honourable senators. It was the result of sound and robust oversight that is reflected in today's legislation that will ensure our financial system continues to be secure for Canadians and give fundamental strength to our economy.

Indeed, this sector is one of the key foundations of the global economy through its unique role in fostering financial stability, safeguarding savings and fuelling the growth that is essential to the success of the Canadian economy.

The financial services sector plays a significant part in the daily lives of Canadians. Beyond those of us who use their services, the industry employs over 750,000 Canadians in good, well-paying jobs. It represents about 7 per cent of Canada's GDP and is a leader in supporting many local community charities and organizations.

You can then not doubt the importance of ensuring that the framework governing this important and influential sector remains current and effective by conducting a five-year mandatory review. This practice sets Canada apart from almost every country in the world and ensures that the laws governing our financial institutions are updated and responsive to the evolving global marketplace.

In other times, this legislative review cycle was sufficient to keep our legislation up to date. However, these are far from ordinary times. Faced in 2008 with the deepest and most wide-reaching financial and economic crisis since the Great Depression, we could not afford to wait for the review. Instead, our government took unprecedented actions between 2008 and 2011 to bolster our financial system to make it more stable, reduce systemic risks and to ensure that the government had the flexibility and power to support financial institutions during a crisis.

To understand the depth and scale of this change, it is worth taking a few moments to review the most fundamental of these measures and what they are intended to do.

Beginning in 2007 and right through to 2008, turmoil in global markets revealed serious weaknesses in the international financial system. Major financial institutions around the world fell or needed to be bailed out by governments at taxpayers' expense. Fortunately, Canada avoided the worst of this crisis. We did not suffer a single bank bailout or failure. Even so, we quickly took action to avoid a similar story on our own soil.

One of the first of these measures, announced in Budget 2008, was to modernize the authorities of the Bank of Canada to support the stability of the financial system. The bank used this new framework to increase the provision of liquidity to financial institutions through a variety of facilities, which is a key element in preserving the flow of credit to Canadians and businesses during the so-called credit crunch.

In Budget 2009, we introduced measures to give the government the power to inject capital into a Canadian financial institution. This authority gives the government a tool to use during extraordinary circumstances — one that we hope and expect never to have to use.

While Canada's financial system is stable, well capitalized and underpinned by one of the most effective regulatory frameworks in the world, many foreign banks had difficulty raising capital on global financial markets during the crisis.

At the same time, also in Budget 2009, we strengthened the authorities of the Canada Deposit Insurance Corporation, or CDIC. This enhancement gave CDIC a greater variety of tools to provide financial assistance to a troubled financial institution, promoting stability and protecting insured deposits.

An important element of this change is that it allowed the CDIC to establish a bridge institution — known in the trade as a "bridge bank" — to preserve the critical functions of a financial institution in dire straits and to help maintain financial stability.

Honourable senators, one of the chief lessons of the financial crisis is the importance of a stable and well-functioning housing market to the economy and the financial system. In Canada, our system of mortgage insurance underpins much of the housing market.

In order to protect our housing market from the worst excesses seen in other economies, our government has acted three times to adjust our mortgage insurance guarantee framework. These adjustments include reducing the maximum amortization period to 30 years from 35 years for government-backed insured mortgages with loan-to-value ratios of more than 80 per cent. We also reduced borrowing limits in refinancing and withdrew government insurance from home equity lines of credit.

In Budget 2011, we announced our intention to give the current rules on the mortgage insurance framework a basis in legislation, which will further promote financial stability. We are actively developing this framework.

Honourable colleagues, as you have no doubt concluded, our government has not been sitting on its hands since the last Financial Institutions Legislative Review completed in 2007. Rather, we have renewed many key elements of our financial system and bolstered it by adding new tools. Therefore, it will not surprise you to learn that in our recent consultations the appetite for further overhauls of the system was not great.

A large and representative group of stakeholders provided comments on the 2011 review of the financial sector statutes. Numerous detailed and thoughtful submissions were received from various stakeholders, including industry associations, financial institutions, consumer groups and individual Canadians. They brought forward a number of excellent proposals for fine tuning, clarifying, harmonizing and modernizing the existing framework at this time.

Honourable senators, our government is committed to doing just that with the proposals contained in the Financial System Review Act. As we know, the current framework functions well and Canada's financial system continues to be recognized as one of the soundest in the world. With that in mind, I will outline a few of the key objectives contained in the act.

The proposed legislative package includes measures that will update financial institutions legislation to promote financial stability and ensure Canada's financial institutions continue to operate in a competitive, efficient and stable environment; fine tune the consumer protection framework, including enhancing the supervisory powers of the Financial Consumer Agency of Canada; and improve efficiency by reducing the administrative burden on financial institutions and adding regulatory flexibility.

• (1600)

Other measures contained in the act include improving the ability of regulators to share information efficiently with our international counterparts; changing the priority status of segregated fund policies in insolvency situations to facilitate timely transfer consistent with life and health insurance policies; clarifying that Canadians, including bank customers, are able to cash government cheques under $1,500 free of charge at any bank in Canada; promoting competition and innovation by enabling cooperative credit associations to provide technology services to a broader market; and reducing the administrative burden for federally regulated insurance companies offering adjustable policies in foreign jurisdictions by removing duplicative disclosure requirements.

Even though this act has been public for only a few days, we have already heard broad support. This is what the Canadian Life and Health Insurance Association had to say:

> It is important that legislation be periodically reviewed so that it keeps up with the changing environment. . . . the industry welcomes a number of measures outlined in (the Financial System Review Act).

Honourable senators, many of the financial sector solutions now being promoted and adopted around the globe are modelled on the Canadian system that has served us so well. The measures proposed in today's act will reinforce stability in the financial sector, fine-tune the consumer protection framework and adjust the regulatory framework to new developments.

The financial sector legislation is subject to a five-year review cycle to ensure Canada remains a global leader in financial services. It is therefore imperative that the legislation be renewed by April 20, 2012, to allow financial institutions to carry on business.

This act provides a framework that will benefit all participants in the financial services sector, financial institutions and all Canadians. It maintains the long-standing practice of ensuring regular reviews of the regulatory framework for financial institutions, a unique practice that sets Canada apart from almost every other country in the world. Indeed, our government recognizes that it must continually consider what regulatory changes are needed to foster competitiveness and to ensure safety and soundness of the financial sector for the benefit of all Canadians.

We have done just that with the measures in the Financial System Review Bill. I therefore urge all senators to give Bill S-5 careful consideration and to show their support for the continued strength and security of our financial system.

(On motion of Senator Tardif, debate adjourned.)

[*Translation*]

RAILWAY SAFETY ACT
CANADA TRANSPORTATION ACT

BILL TO AMEND—THIRD REPORT OF TRANSPORT AND COMMUNICATIONS COMMITTEE—DEBATE ADJOURNED

The Senate proceeded to consideration of the third report of the Standing Senate Committee on Transport and Communications (Bill S-4, An Act to amend the Railway Safety Act and to make consequential amendments to the Canada Transportation Act, with amendment), presented in the Senate on November 24, 2011.

Hon. Dennis Dawson moved the adoption of the report.

Honourable senators, I think there are a few comments to be made on this matter. I would like to point out, however, that the amendments included in the report were made in the spirit of cooperation among all members of the committee.

(On motion of Senator Carignan, for Senator Eaton, debate adjourned.)

[*English*]

WORLD AUTISM AWARENESS DAY BILL

THIRD READING

Hon. Jim Munson moved third reading of Bill S-206, An Act respecting World Autism Awareness Day.

He said: Honourable senators, before moving to third reading of this bill, I would like to particularly thank Senator Seidman for her tremendous support of this bill and the committee when we discussed this bill last week before the Social Affairs Committee. After three years, two prorogations, politics, elections and so on and so forth, we are all tenacious in trying to get this bill through. I want to thank members of the opposition for being supportive of this endeavour to make an act respecting World Autism Awareness Day. I appreciate that very much.

I move third reading of this bill.

The Hon. the Speaker *pro tempore*: It has been moved by the Honourable Senator Munson, seconded by the Honourable Senator Hubley, that Bill S-206, An Act respecting World Autism Awareness Day, be now read a third time. Are honourable senators ready for the question? Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

(Bill read third time and passed.)

INDUSTRIAL ALLIANCE PACIFIC GENERAL INSURANCE CORPORATION

PRIVATE BILL—SECOND READING

Hon. Michael A. Meighen moved second reading of Bill S-1002, An Act to authorize the Industrial Alliance Pacific General Insurance Corporation to apply to be continued as a body corporate under the laws of Quebec.

He said: I am pleased to move the second reading of Bill S-1002, An Act to authorize Industrial Alliance Pacific General Insurance Corporation to apply to be continued as a body corporate under the laws of Quebec.

This bill is not, I believe, controversial. It is simply a private bill requested by a private company to allow it to apply to change from a federally regulated insurance company to a provincially and, more specifically, Quebec-regulated insurance company.

[*Translation*]

Industrial Alliance Pacific General Insurance Company is part of the Industrial Alliance Group of Companies. It was established in Saskatchewan and, in 2002, was purchased by Industrial Alliance Pacific Insurance and Financial Services Inc., a federally-regulated company established in Vancouver. In order to be subject to the same regulatory organization as its parent company, IAPG became a federally-regulated company in 2007.

IAP belongs to Industrial Alliance Pacific Insurance and Financial Services Inc., or IA, a life and health insurance company incorporated under the laws of Quebec. IA is the fourth largest health and life insurance company in Canada. Its assets under management total about $71.5 billion and it has over 3,900 employees serving over three million Canadians.

IAP tried to sell and transfer IAPG to IA, the parent company.

• (1610)

In order for IAPG to be subject to the same regulator, it essentially has to be transferred to Quebec's regulatory authority and receive a Quebec charter.

For a corporation to cease being governed under a federal charter and to receive a provincial charter, federal legislation has to be passed in the form of a private bill because the Insurance Companies Act of Canada does not contain any provisions to transfer a corporation from a federal charter to a provincial charter.

[*English*]

IAP is selling IAPG to the parent company, IA, for economic, regulatory and efficiency purposes. IAPG has no employees who do not presently work for its parent company, IAP. Consequently, this transfer will have no impact on any jobs or head offices. It is simply an administrative measure that will allow the members of one corporate family to streamline processes and avoid administrative and legal duplication. This regulatory reorganization will also allow the Industrial Alliance Group of Companies to face today's economy in a better organizational structure and to continue to create jobs and wealth for Canadians.

Honourable senators, IAPG has undergone all the required prerequisites for the introduction of this private bill, including the publication of notice in the Gazette and certification of the petition by the Senate's Examiner of Petitions. It is important to note that both the Office of the Superintendent of Financial Institutions in Ottawa, who currently regulates IAPG, and the Autorité des marchés financiers in Quebec, who will be the new regulator once this bill has passed and the company receives its Quebec charter, have provided confirmation that they have no objections to this process.

I should also add that this bill does not create a precedent and, indeed, since 1994, three such initiatives have been undertaken by life insurance companies moving from federal charters to provincial charters in the province of Quebec. The first was Bill S-3 in 1994, the second was Bill S-27 and the third Bill S-28, both having been passed in 2001. I believe Senator Joyal and Senator Beaudoin were both very deeply involved with those.

Honourable senators, given that the government in Quebec cannot give a formal cabinet decree enacting what is contemplated in Bill S-1002 until this bill receives Royal Assent at the federal level, and given that this private company understandably wishes to commence under its new structure in the new year rather than waiting possibly until 2013 to proceed that way, there is a sense of urgency to expedite passage of this bill. A cabinet decree in Quebec City cannot take place after the National Assembly rises for its winter recess, which I am told could happen as early as December 9, 2011. I therefore respectfully submit that Bill S-1002 should be submitted to committee as soon as possible — presumably the Standing Senate Committee on Legal and Constitutional Affairs — for review and, hopefully, speedy approval.

[*Translation*]

Hon. Dennis Dawson: Honourable senators, in the spirit of Christmas and with the cooperation of both sides of the chamber, the official opposition supports Senator Meighen's initiative to quickly pass this uncomplicated bill.

It is a matter of being more efficient. The company will now fall under Quebec's financial authority, just like every other company under the Industrial Alliance umbrella. However, since Senator Meighen is talking about this for the third time, I think we should consider the possibility of changing the framework legislation.

If we look at Bills C-94, C-27, and C-28, we see that every year they are always passed at the last minute, at end of the session either in June or December, with an urgent motion.

There will be no debate. There may be some questions asked of witnesses in committee, but in reality it is just a formality. If we changed the Insurance Companies Act of Canada to allow this transfer, then it would be just as easy to do so from the federal level to the provincial level as it is the other way around.

That being said, I hope that we will be able to send this bill to the House of Commons as quickly as possible so that it is dealt with before 2012.

Hon. Andrée Champagne: Honourable senators, I pointed out to the Clerk a few moments ago that the French and English wording on the Order Paper says two completely different things for this private member's bill. It is simply a question of semantics but I think that the translation needs to be correct.

[*English*]

The Hon. the Speaker *pro tempore*: That can go as a directive to the table, perhaps.

Is there further debate? Are honourable senators ready for the question?

Some Hon. Senators: Question.

The Hon. the Speaker *pro tempore*: It was moved by the Honourable Senator Meighen, seconded by the Honourable Senator Eaton, that this bill be now read the second time. Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

(Bill read second time.)

REFERRED TO COMMITTEE

The Hon. the Speaker *pro tempore*: Honourable senators, when shall this bill be read the third time?

Hon. Michael A. Meighen: Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(a), I move:

> That rule 115 be suspended with respect to Bill S-1002, An Act to authorize the Industrial Alliance Pacific General Insurance Corporation to apply to be continued as a body corporate under the laws of Quebec.

[*Translation*]

Hon. Dennis Dawson: Honourable senators, in the same spirit, I am pleased to second Senator Meighen's motion.

[*English*]

The legislation would sit for a week before it is sent to committee. If we do that and get closer to December, close to the adjournment of the National Assembly, we could have done all of this for nothing because it would not from been approved by the other chamber and will not have been ratified by the Government of Quebec. For expediency sake, we are suspending that rule. The bill would be sent to committee as quickly as the chair of the committee is ready to receive it and we would proceed to the adoption as quickly as possible.

[*Translation*]

Senator Meighen: I hope that the spirit of Christmas will continue.

[*English*]

Hon. Terry Stratton: There is tradition in this chamber that no matter what the bill, it goes to committee, even if it is for one session.

An Hon. Senator: It is going to committee.

Senator Stratton: Then that is fine.

The Hon. the Speaker *pro tempore*: Honourable senators, it has been moved by Senator Meighen, seconded by Senator Eaton, with leave of the Senate, and notwithstanding rule 58(1)(*a*):

> That rule 115 be suspended with respect to Bill S-1002, An Act to authorize the Industrial Alliance Pacific General Insurance Corporation to apply to be continued as a body corporate under the laws of Quebec.

Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

The Hon. the Speaker *pro tempore*: Honourable senators, when shall this bill be read the third time?

(On motion of Senator Meighen, bill referred to the Standing Senate Committee on Legal and Constitutional Affairs.)

RULES, PROCEDURES AND THE RIGHTS OF PARLIAMENT

FIRST REPORT OF COMMITTEE—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Smith P.C. (*Cobourg*), seconded by the Honourable Senator Cordy, for the adoption of the first report of the Standing Committee on Rules, Procedures and the Rights of Parliament (*Revised* Rules of the Senate), presented in the Senate on November 16, 2011.

Hon. Joan Fraser: Honourable senators will recall that when Senator Smith opened the debate on this report from the Rules Committee, he spoke for only a few minutes. He said explicitly that, because he was going to be out of the country travelling with committee, he wished to adjourn the debate for the balance of his time on the understanding that other senators would be able to speak in the meantime and that it would remain standing adjourned in his name when those other senators concluded their remarks. It is on that understanding that I am rising to speak today.

• (1620)

Honourable senators, this is the first report of the Standing Committee on Rules, Procedures and the Rights of Parliament, and it is a great big thick one. It is the culmination of a project that began as many as 12 years ago, at the instigation of our then Speaker, the late and regretted Senator Molgat. I cannot say that the work has gone on non-stop for 12 years, but it has gone on for several years. The object of it has been to render our rules user-friendly.

[*Translation*]

The honourable senators who consult the current rules are well aware that they are sometimes difficult to understand, are often poorly structured and, above all, poorly written in French. The quality of the French version of our rules too often reflects the fact that they were translated quickly after an English version had been carefully developed. The French version of the rules does not reflect the nature of the French language as it should.

[*English*]

Most recently, this task has been the responsibility of a subcommittee of the Rules Committee that I had the honour to chair, and that subcommittee was preceded by an earlier subcommittee and, if memory serves, by a working group. All senators who have participated in that work have done so diligently and with a tremendous degree of dedication.

The most recent subcommittee has consisted of myself, Senator Stratton and Senator Carignan. For earlier incarnations, the names that come to me off the top of my head include Senator Smith, Senator Oliver, Senator Carstairs, Senator Nolin, Senator Joyal and Senator McCoy. What I would really like to stress, colleagues, is that in all cases the subcommittee, the working group and eventually the full Rules Committee, which did line-by-line reviews of the subcommittee's work, operated on the basis of genuine consensus. I do not know when it has been such a pleasure to work with a group of colleagues in this place. Truly, everyone who worked on this had a single goal, and that was to serve the Senate, to preserve the nature of the Senate, to meet its needs and to make its rules easier to use for senators.

In other words, what we set out to do was to clarify the current rules. Our mandate was not to change the rules in substance, except in those cases where some change on close examination seemed either inevitable or very clearly desirable.

What have we done? We have done quite a lot, actually. If you look at the report that was presented to the chamber, you will see that the physical presentation of the rules is very different. There are now proposed to be 16 chapters instead of the existing 12 parts. We believe that the presentation is more logically ordered, that each chapter is a more logical whole than is the case in the present rules. One interesting innovation, which I have come to find extremely useful, is that all of the rules within each new chapter — Chapter 1, Chapter 2, Chapter 3 — are numbered first of all with the number of the chapter and then with the number of the rule. Thus, the fifth rule appearing in Chapter 3 is rule 3-5. You always know where to go to find it.

There has been considerable reordering of the rules in order to make them, we hope, easier to follow and to group related provisions together. For example, proposed new rule 10-3, which concerns the introduction and first reading of bills, takes parts of existing rules 23 and 73 and brings them together because it seemed logical to group them together.

Within each chapter there are subheadings to signify what general topic is being addressed by the following rules. The table of contents we hope will be almost as good as an index in its own right because it lists chapters and headings, then the subheadings, and then, for every single rule or subparagraph of a rule, identifies the marginal note, which tells a reader what that is about. The idea is for it to be very easy to find things in the rules.

Another innovation — and I gather this is rather something of an innovation for parliamentary practice in the Westminster system, not only here but elsewhere — we thought it might be

helpful to include, after any rule where an exception to that rule exists somewhere else, a specific reference to that exception. Similarly, if one of our rules is based in law — the Constitution or the Parliament of Canada Act or whatever — that legal reference is also given immediately following the rule in question so that senators may understand why a given rule exists.

[*Translation*]

The new version that we are proposing also includes, as an appendix, a new glossary to explain some of the terms used. We thought it was a good idea to remove the definitions in the current rules and provide, as an appendix, a much more detailed and complete list of definitions than the short one found in the current rules. Also, to help senators get accustomed to the new structure, we provided a concordance table.

[*English*]

This concordance gives you references so that you can look at the number of an old rule and find out where you would find it in the new rules, or vice versa. You can look up the number of a new rule and find what that refers to in the old rules.

[*Translation*]

I am pleased to be able to assure you that we have paid particular attention to the quality of the French. As I indicated earlier, the quality of the French version of the current rules is often shaky if not downright unsound. This time we really want the French version to be as good as the English. To that end, we even hired an expert in parliamentary French to help us with our work.

[*English*]

We have suggested some changes for the rules — some small, some perhaps not so small, some just seeming to be necessary. The one that strikes me as being most obviously necessary is that under the Constitution of Canada, since 1867, all votes in the Senate are decided by a simple majority, but tucked away in the present rules there is a rule that says that in order to rescind a previous vote you need a two-thirds majority. It sounds like a good idea, except that the Constitution does not provide for that. That is an example of a change where we would propose that if the Senate in its wisdom adopts the new version of the rules, the new version would reflect the Constitution of Canada.

There are a few more significant changes.

[*Translation*]

We believe that we have made the presentation simpler and that it will be easier to follow the *Order Paper* and *Notice Paper*, as inquiries and motions appear in distinct categories. Obviously, the government will retain the possibility of reorganizing its work, Government Business, if it so desires.

[*English*]

We propose also to clarify how to deal with questions of privilege — this is a fairly thorny subject — ensuring that the rules reflect the practice that has developed in recent years, following upon various difficulties in the chamber. We have also addressed the matter of the length of bells.

• (1630)

At present, all bells, except those for deferred votes, are 60 minutes if the two sides cannot agree on a shorter bell. However, if we read into the entrails of the rules, it would appear that quite a number of our bells should only be for 15 minutes, notably bells referring to standing votes on non-debatable items.

Honourable senators will also be aware that there has been much discontent on both sides of the chamber for a long time about 15-minute bells that are too short to allow people to get here from the Victoria Building if they do not know that a vote is going to be scheduled. Therefore, we have proposed 60-minute bells on unscheduled standing votes on debatable items and on a few non-debatable items, notably on a motion to adjourn the Senate; 30-minute bells on unscheduled standing votes on most non-debatable items; and 15-minute bells for scheduled standing votes, basically deferred votes, as is the current situation.

I repeat, honourable senators, these and every other element of this report from the Rules Committee are our best effort to bring forward something that the Senate itself would benefit from using, but it is very important that senators study this work and that senators decide if this is the way they want to go. There are very knowledgeable senators in this place who were not part of the work on this report, and it would be terribly important to have the benefit of their wisdom.

I know many senators think rules are deadly dull and dry. Perhaps if they were to look at what we hope is a clearer version, they might find the rules a little less dull and dry. However, the important thing is that the Senate itself decide; the Senate itself must examine this work and decide whether it wants to adopt all of it, some elements of it or some of it amended.

It is in our hands now, collectively, honourable senators. It is the hope of the Rules Committee and of the subcommittee that colleagues will find at least that we have made a reasonable beginning on this very important work.

I move the re-adjournment of the debate in the name of Senator D. Smith.

Hon. Anne C. Cools: I have a question.

I find the whole situation to be massive. I am not really convinced, honourable senators, that we are talking here about a new rule book; we may be talking about an encyclopedia.

The objective of rule books is that they should be mastered by each and every senator. My question to Senator Fraser is, first, how long does she think it would take a senator to master and learn these new rules? Could she give me an estimation of time?

Senator Fraser: It depends on the degree of mastery to which the honourable senator refers. I do not think I am showing disrespect to any member of this chamber to say that if he or she served from age 30 to age 75, one might still not have mastered absolutely every implication of every rule.

However, in terms of understanding what is in this report as it relates to what is in the present rules, to the degree that each individual senator might feel comfortable, I would think that it does not have to be a project for years. I would think we could do it very effectively in a matter of some months, possibly even a little faster depending on how fascinated senators became. I am fascinated and I believe Senator Cools is, but I do not know if everyone is.

Senator Cools: I have lived through other situations in this place where the rules have been radically altered. I say with the greatest of good intentions, honourable senators, that in 1991, when those rule changes occurred, it took some of us five years or so at least to — perhaps "master" is the wrong word — become well acquainted with the rules.

I do not believe for a moment that senators here will become acquainted with these rules in a short order of a few months. I have been trying to read them and I find them extremely cumbersome and difficult to read. This is to read, not even to understand — just to move from one part of the document to the other.

Wisdom tells us that changes in the rules introduce a high degree of instability in this place. For a long period of time, the only persons who will know those rules are the staff who worked with the committee, and perhaps that small number of individuals who were chosen — because this is a subcommittee and I believe the small number of them was chosen.

The Hon. the Speaker *pro tempore*: Honourable Senator Cools, I regret to inform you that Senator Fraser's time for speaking has expired. Are you going to ask Senator Fraser if she would ask for an extension?

Senator Cools: Ask for an extension.

The Hon. the Speaker *pro tempore*: Honourable senators, is leave granted to extend the time of Senator Fraser for five more minutes?

Hon. Senators: Agreed.

Senator Cools: I am on a very small point here. There are much larger points to raise on these questions, but I really want a realistic assessment of the length of time it will take senators to know and understand this new system of rules, because it will be a long time for all those senators who are new.

Senator Fraser: Honourable senators, I have given Senator Cools my best personal estimate. I am not in a position to speak for all senators. I am not in charge of the organization of chamber business, and it is very difficult for one person to be sure that he or she understands another person's needs or capacities.

I think, as I said earlier, that we could probably do this work properly — not skimming over it, but do it properly — in the space of a few months. However, that is not my final decision to make.

Senator Cools: I quite agree.

There is a more substantive question. I do not understand why all of these rules had to come to us en bloc in such a large quantum, but we will get to that later.

You made mention of some changes that were thorny; your exact word was "privileges." Perhaps my honourable friend could tell us what is thorny about it.

Senator Fraser: I was reaching for a word. I did not have a written text, and "thorny" was the one that came to mind.

Honourable senators will recall that in recent years there has been a fair amount of discussion, debate, Speaker's rulings and some controversy over existing rule 43 and an existing sub-number of rule 59. On the plain face of them, they are contradictory in that the first requires a very elaborate notice period for questions of privilege to be raised, and the second says flatly that no notice is required for questions of privilege to be raised.

The subcommittee attempted to square this circle, reflecting what has become recent practice in the light of Speaker's rulings that were not overturned by the Senate — as, of course, any Speaker's ruling can be.

I would stress that the work of the subcommittee was then gone over line by line, word by word, by senators on the full Rules Committee. This seemed to us a reasonable way to go, but now it will be for the full Senate to make that final determination.

As to why it was all done at once, it became so apparent that once you start pulling on one little element, you are affecting another little element maybe 50 pages on. It was actually easier to do it all at once than to try to carve out disparate elements and handle them separately.

• (1640)

Senator Cools: Also, honourable senators, it is easier to try to have rules voted en bloc than it is to have a debate on each rule as the changes occur.

Would the honourable senator say that the changes she is speaking about in rule 59(10), rule 43 and rule 44 are substantive, or would she say that they are just tidying up? I understood that the subcommittee was to tidy up and clarify the rules and that there was nothing substantive, no substantive change.

Senator Fraser: I thank Senator Cools for that important question. I believe I tried to stress that we did have as a mandate to clarify the rules. As I say, the two existing rules contain, on their plain face, a contradiction. We tried to come up with a proposal for the wording of a new rule, which, in its substance, is a change from rule 43 or rule 59 but that does reflect what has become, in very recent years, the way the Senate has functioned.

To that extent, it is not a substantive change that we propose in practice, although it certainly does change the plain wording of the rules as now written. If I chose to point that out, it is because

this is arguably the most significant change in the wording of the present *Rules of the Senate*, in our view, that we did propose.

The Hon. the Speaker *pro tempore*: I must advise the honourable senator that the extended time has expired.

Senator Cools: These are large issues before the house. Maybe we could indulge Senator Fraser with a little more time. It is the *Rules of the Senate*.

The Hon. the Speaker *pro tempore*: Honourable senators, further debate?

Senator Fraser: I move the adjournment in the name of Senator Smith.

The Hon. the Speaker *pro tempore*: It has been moved by Senator Fraser, seconded by Senator Tardif, that debate be adjourned in the name of Senator D. Smith. Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

(On motion of Senator Fraser, for Senator D. Smith, debate adjourned.)

[*Translation*]

ROYAL ASSENT

The Hon. the Speaker *pro tempore* informed the Senate that the following communication had been received:

RIDEAU HALL

November 29, 2011

Sir,

I have the honour to inform you that the Right Honourable David Johnston, Governor General of Canada, signified royal assent by written declaration to the bills listed in the Schedule to this letter on the 29th day of November, 2011, at 4:15 p.m.

Sincerely,

Stephen Wallace
Secretary to the Governor General

The Honourable
Speaker of the Senate
Ottawa

Bills assented to Tuesday, November 29, 2011:

An Act to give effect to the Agreement between the Crees of Eeyou Istchee and Her Majesty the Queen in right of Canada concerning the Eeyou Marine Region (*Bill C-22, Chapter 20, 2011*)

A third Act to harmonize federal law with the civil law of Quebec and to amend certain Acts in order to ensure that each language version takes into account the common law and the civil law (*Bill S-3, Chapter 21, 2011*)

An Act to amend the National Defence Act (military judges) (*Bill C-16, Chapter 22, 2011*)

[*English*]

BAHA'I PEOPLE IN IRAN

INQUIRY—DEBATE CONCLUDED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Jaffer calling the attention of the Senate to the deteriorating human rights situation of the Baha'i people in Iran.

Hon. Roméo Antonius Dallaire: Honourable senators, I want to present a case in support of Senator Jaffer's inquiry in respect of the Baha'is in Iran. The continuum of the situation is catastrophic, in my opinion, and I will make my argument to this effect.

I rise today to speak to the inquiry placed on the Order Paper by the Honourable Senator Jaffer. The human rights situation of the Baha'is in Iran is deteriorating, and we in Canada cannot simply turn our heads the other way. I will bring forward three recommendations at the end of my presentation.

Since the days of Baha'u'llah in the late 19th century, Baha'is have persistently been persecuted in Iran. They are targeted because they challenge the cultural orthodoxy of the ruling class. They have an elected leadership, not an ecclesiastical hierarchy, and their beliefs include equality of the sexes and harmony between science and religion — something that others could learn from. However, these are not the main reasons that the Baha'is are persecuted in Iran. The root of their persecution lies in the technical differences between their faith and that of the Shia majority, paramount of which is the Baha'i belief that Mohammed was not the last prophet sent by God. In Iran, this has marked the Baha'is as heretics and has subjected them to heinous persecution.

Previous to the 1979 Iranian revolution, the Baha'is were subject to informal bouts of violence. Local mullahs would whip mobs of their followers into frenzies of violence and unleash them on any Baha'is in the vicinity. Any property belonging to Baha'is would be destroyed and any Baha'is who could not escape would be beaten and tortured to death.

The worst such recorded instance was the 1903 massacre in the city of Yazd, where over 100 Baha'is were killed in a single such mob attack. These attacks were informal in the sense that the state policy of Iran was not officially or systematically directed against Baha'is. Instead, the silent majority of the ruling Shah simply turned a blind eye to the abuses committed by the extremist facets of the clergy, which were usually carried out with the blessing of the Ayatollah.

This all changed with the Iranian revolution in 1979; in fact, it changed for the worse. Anti-Baha'i organizations such as the Hojjatieh, a fanatical group created in the early 1950s with the blessing of the Ayatollah, gained access to state files and began targeting the Baha'is across Iran. Mobs scoured their neighbourhoods looking for Baha'is to massacre. They burned down their homes and businesses, and slaughtered Baha'is with impunity. They did not even spare the dead, as they even desecrated and demolished cemeteries.

• (1650)

At the same time, between 1979 and 1983, the ruling powers undertook a systematic effort to rob the Baha'i community of the most respected members of its communities — Baha'is elected by their peers to the National Spiritual Assembly and their community counterpart. In 1980, the full membership of the National Spiritual Assembly was arrested. When new members were elected to the Baha'i National Spiritual Assembly, they too were arrested. On December 27 of that year, without receiving trial, they were executed. I repeat: They were executed.

During this difficult time, Canada took a leadership role in accepting Baha'i refugees from Iran. We also took an active role in advocating for the Baha'i cause internationally. We opened our doors to these people who were persecuted for their religion.

[*Translation*]

It is recognized that international pressure on Iran, by countries such as Canada and by the international Baha'i community, led to a decrease in direct violence on Baha'is in Iran. Unfortunately, this community continued to be repressed, just in new ways.

In earlier times, repression of the Baha'is was informal since, before the Iranian revolution, there was greater separation between the powers of the state and the dominant Shia religion. After the revolution that was no longer the case, since Iran became an Islamic republic. Repression of the Baha'is became more generalized and could even have been considered policy.

However, the Islamic state does not automatically oppress all religious minorities. The Iranian Constitution of 1979 contains a list of recognized religions and allows their members to freely practice their religion, within the limits of Islamic law. The Baha'is, who are the largest religious minority in Iran, were excluded from the list and are thus not protected by the law. They are targeted specifically.

[*English*]

If Baha'is practice the tenets of their faith, they do so at their peril. In 1991, the implicit denunciation of the Baha'i faith, as illustrated in the constitutional exclusion, was reinforced by an explicit policy of targeted repression. This policy came in the form of a set of guidelines circulated internally by the Supreme Revolutionary Cultural Council. It is now policy to oppress the Baha'is. It is overt policy against a human right — the right to the free practice of your religion.

Exposed in a 1992 UN report by the Special Representative of the Commission on Human Rights of the Economic and Social Council, they state:

> The government's treatment of [the Baha'is] shall be such that their progress and development shall be blocked.

Any Iranian who identifies as Baha'i is barred from higher education, from holding a position in the government, or from partaking in the political process. The similarities with what I saw in Rwanda are absolutely unquestionable, equal, similar and in fact applied with seemingly the same verve.

Any promotion of the Baha'i faith is to be punished through exclusionary tactics. In a contradictory turn of phrase, the policy states that Baha'is are permitted the normal benefits of citizenry, but only to the extent that it does not constitute encouragement for them to persist in their status as Baha'is. In this case, we have not an ethnic but a religious situation of targeting a specific group to oppress them and ultimately, I would argue, to eliminate them. Insofar as you are Baha'i, you are to be excluded from the benefits of citizenry.

Honourable senators, there is a term for this type of systematic repression. We call it "ideological genocide." An essential element of ideological genocide is the intent to destroy, in whole or in part, the Baha'i community as a separate religious entity. It is this intent to destroy the Baha'i community as a separate religious entity that requires our urgent and deliberate attention.

As a country that values religious freedoms and the safeguarding of basic human rights, we must hold vigilant watch over the methods that the Government of Iran uses to achieve the goals of this policy. Whereas we should use whatever political and diplomatic means to try to steer Iran towards a greater respect for human rights and a more open and democratic society, it is absolutely imperative that we guard against the very real possibility that the ideological genocide will manifest itself through the widespread and systematic murder of Iranian Baha'is.

"Systematic murder of Iranian Baha'is" are similar words that I saw in the pre-genocide of 1994 in Rwanda.

[*Translation*]

Honourable senators, these are the reasons why I am speaking here today about the terrible situation facing Iran's Baha'i community. Faced with the remarkable resistance shown by that community, the Iranian government is losing patience, and there are more and more indications that this community will only be further repressed.

Senator Jaffer drew our attention to the arrest of seven local Baha'i leaders in 2008. Those individuals have committed no crime, at least not in any country that recognizes the fundament right of freedom of religion. Their crime consisted of nothing more than supporting their religious community, yet they were sentenced to 20 years in prison. Once again, the prisons of Rwanda were filled with Tutsi people for almost the same reasons, except their crime was based on their ethnicity, rather than their religion.

[*English*]

It is bad enough that the Baha'is are forced to make do without state support, but the fact that they are not even permitted to provide for themselves is unacceptable. They are being punished

for trying to survive. Nothing makes this clearer than the most recent example of state repression of Iranian Baha'is. The 1991 set of guidelines, which guides government policies still today, bar Baha'is from receiving higher education in a policy specifically designed to prevent the transmission of the Baha'i culture in Iran and the upward mobility of Iranian Baha'is.

In response to this policy, the Baha'is around the world have worked tirelessly to provide education for Iranian Baha'is. They created the Baha'i Institute of Higher Education, which was launched in 1987, to educate young Baha'is so they may receive the education the state has deprived them of. In spite of the many obstacles, they managed to provide university-level education to Iranian Baha'is.

We can proudly say that 63 of these educators received their degrees here in Canada. We have supported this effort that you would consider subversive if you were an Iranian government official. We consider it fundamental in the agreement that we believe in the human right to free religion.

Unfortunately, not only are their university degrees not recognized in Iran, whether from the Baha'i university, the University of Ottawa, or even Memorial University or UBC, from one end of our country to the other, but now the institution that was giving them their education has itself become the target of state violence.

In May 2011, the Iranian state police launched a set of coordinated raids on the homes of individuals associated with that institute. Personal belongings were confiscated, and 16 individuals were arrested. Seven of those individuals were sentenced to four to five years in jail and still remain there.

[*Translation*]

These attacks against the Baha'i leaders and teachers are troubling enough as human rights violations.

• (1700)

However, they are even more disturbing because they took place in the context of the Iranian state's severe repression of the entire Baha'i community. A similar scenario played out in Rwanda where the Tutsi ethnic minority was not allowed access to higher education in their country. They had to leave the country in order to access higher education.

The incarceration of Baha'is in Iran is rising at an alarming rate. In the past 18 months, the increase has been exponential. In 2004, only four were incarcerated. In 2010, there were 48. In 2011, there are more than 100. More Baha'is were arrested in the past year than in the previous six years combined. In addition, Baha'is serve disproportionate sentences without the right to be freed on bail. Incarcerated Baha'is are a very small portion of those whose homes were plundered, whose goods were confiscated and who were arrested and detained for no other reason than their religion. These are signs that the situation of Baha'is in Iran is deteriorating rapidly. This situation resembles the situation in Rwanda 17 years ago.

I have in my hand a report entitled, *Inciting Hatred: Iran's Media Campaign to Demonize Baha'is*.

This study, published in October 2011, shows the increasingly ferocious propaganda campaign directed by Iran against the Baha'i community. This tactic was also used in Rwanda where the media demonized the Tutsi minority.

I will ask for five more minutes.

[*English*]

The Hon. the Speaker *pro tempore*: Honourable senators, is leave granted for five more minutes?

Hon. Senators: Agreed.

[*Translation*]

Senator Dallaire: I still have a lot to say about this. Nonetheless, since I am short on time, I will have to go straight to the recommendations that I would like to bring to your attention for the benefit of our government.

We must consider the tools at our disposal for dealing with this situation and the national and international spheres affected by our actions. We are witnessing a slow-motion rehearsal for genocide, the preparation for genocide in a country where the targeted population is obvious. It is happening right in front of us and we are fully aware of the situation. No one can claim not to realize that these acts are being committed. In 1994, we had our eyes closed. This time we are fully aware.

What should our government do? First, we must welcome all Iranian Baha'is seeking refugee status in Canada. We must ensure that Canada remains a refuge for those seeking to flee religious extermination. We did that for the Vietnamese and for other groups as well. This group is being specifically targeted for elimination by its government. We recognize that government as a major human rights violator. This situation meets the United Nations criteria that arose from the work done after the genocide in Rwanda to prevent such a tragedy from ever happening again.

Second, we must use the new tool that the government has established — the Office of Religious Freedom. It has a significant role to play in the situation of the Baha'is in Iran. The religious persecution of Baha'is in Iran is the first situation that this office should consider. As Senator Segal recommended, the office should work with similar organizations at the international level in order to end the repression of the Baha'is, free those who have been imprisoned and encourage political change so that this religion is recognized and its members are able to enjoy the same rights as other Iranians. These efforts should be combined with our bilateral and multilateral strategies and with the action taken by the human rights branch of the Department of Foreign Affairs and parliamentary groups such as the All-Party Parliamentary Group for the Prevention of Genocide and Other Crimes Against Humanity, which I have the honour to chair. This is not the first time that this issue has been raised before this committee, which represents both chambers and all parties.

Third, we must ensure that our approach to Iran in the area of foreign affairs is consistent and coherent. The problems of terrorism, repression of minority groups and the conflict with Israel must be taken into consideration in order to get a comprehensive view of the situation.

More action must be taken against this country, which not only oppresses people but also puts the rest of the world at risk through its desire to arm itself with nuclear weapons. We must ensure that our response is proportional to the existing threat.

We used the fact that we were unaware of the situation as an excuse for not taking action in 1994. This time, we are aware of the situation. We therefore have no excuse. On the contrary, we have the tools to be able to respond to the problem reasonably and responsibly.

[*English*]

Honourable senators, we know the genocidal intent of the Iranian state. It seeks to destroy the Baha'i community as a separate religious entity. We have been witnesses to the systematic classification of Iranian Baha'is as an outgroup identified for persecution, elimination and genocide. Baha'is have been excluded from constitutional protection and are subject to discriminatory guidelines that not only withhold the benefits of Iranian citizenry but also are, in fact, a policy within their government to oppress them.

We are now confronted with the growing body of evidence that illustrates, in painful detail, the relentless attacks on Baha'i communities and their leadership, the dehumanization of Baha'is and their polarization from Iranian society. The alarming increase in incarceration among the Baha'is and, most particularly, among their leadership, the disproportionate sentences and unreasonable bail and the vile propaganda that paints Baha'is as cultish and part of a Zionist conspiracy to undermine the Islamic state of Iran is all bull. It is all false. It is all an instrument to excuse the deliberate actions by that government to destroy that religion within their boundaries.

Make no mistake, these are not only indices of past and present persecution; they are warning signs of mass atrocities, of genocide. Let us not witness another one, fully conscious of what the consequences are.

The Hon. the Speaker *pro tempore*: If there is no further senator wishing to participate in this debate, this matter shall be deemed debated.

THE SENATE

MOTION TO RECOGNIZE DECEMBER 10 OF EACH YEAR AS HUMAN RIGHTS DAY—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Jaffer, seconded by the Honourable Senator Chaput:
>
> That the Senate of Canada recognize the 10th of December of each year as Human Rights Day as has been established by the United Nations General Assembly on the 4th of December, 1950.

Hon. Mobina S. B. Jaffer: Honourable senators, I rise today to speak on the motion requesting that the Senate of Canada recognize December 10 of each year as Human Rights Day, as was established by the United Nations General Assembly on December 4, 1950.

This is not a new motion. I brought up the same motion in early December 2010, with the hope that it would be adopted in time for the December 10 Human Rights Day. However, this did not occur. For a number of reasons, this motion was delayed and eventually died on the order paper.

• (1710)

Now, with a new Parliament and a new session, I believe the recognition of Human Rights Day by the Senate is more crucial today than it was when it was first introduced last year.

The reality is that throughout history, human rights violations have always been a common practice. Individuals from every country in the world have had their basic rights violated and many of these types of violations continue to this day. The creators of the Universal Declaration of Human Rights understood this. However, what they aimed to do through the creation of the groundbreaking document in 1948 was to create a system that, first, acknowledged our flawed framework and, second, made an ongoing effort to fix it.

We, as Canadians, are very proud of this document, as it was drafted by a Canadian: John Peters Humphrey. The intention was that one day in the future we would be closer to a world where, both in theory and practice, respect and dignity of all human beings would prevail over a world where violations were a daily norm or common practice.

I believe that since 1948 we, as an international community, have made great strides toward this more equal world. The recognition of December 10 as Human Rights Day is an example of one of these strides. In 1950, two years after the UDHR was produced, the United Nations General Assembly established that December 10 would be recognized as the day the international community would acknowledge and celebrate the basic rights of all.

Since then, many countries, including our very own, have taken steps to do their part in recognizing this phenomenon as well. By participating in this common global process, nation-states have emphasized how vital an international rights framework really is. In my original speech on the motion at hand, I made reference to Liu Xiaobo, a Chinese human rights defender who is currently serving an 11-year prison term for his work to bring freedom and justice to the people of China. Liu Xiaobo's years of commitment to human rights was recognized last year by the international community when he was awarded the 2010 Nobel Peace Prize. At the time of my speech, just a few days before the awards ceremony, it was unclear if the Chinese government would allow Xiaobo to leave prison to claim his prize. However, on

December 10, as the world watched the awards ceremony, the answer was evidently clear. The empty chair for Liu Xiaobo spoke volumes about the lacking commitment some of the world still has to human rights in the 21st century.

Honourable senators, we know that human rights must be recognized and acknowledged at every single level. They must be recognized and acknowledged now more than ever. If anything, the recent events in the Middle East have emphasized this. The Arab Spring has raised a lot of questions of human rights for people. The democratic revolutions in Tunisia, Egypt and now Libya have shown the world how far people are willing to go to attain their fundamental rights and freedoms.

For too long, people in these countries have lived in a system where their human dignities were neither respected nor promoted. They lived in a system that does not provide the necessities that are guaranteed. They lived in a system that has inhibited their overall well-being and potential.

However, change, as we saw, came from citizens in the Arab Spring. Citizens of those countries realized that as human beings they had basic inalienable rights that no one could take away from them, and thus they decided to fight for them. They decided to fight for their lives, their children's lives and their future grandchildren's lives, all in the name of human rights. As we saw, many were ultimately successful in their fight.

The events in the Middle East over the last few months have truly exemplified what profound power people can have, especially when they are fighting for their basic freedoms.

Now my biggest concern is what will happen to the women living in these countries. Yes, there has been an Arab Spring, but we have to remain vigilant and ensure that the success of the Arab Spring is not at the cost of women's rights. All too often a woman's concern for supporting their husbands and families takes priority over their own personal human rights. We can no longer sit back and watch women make such sacrifices. We should not let a woman's concern for ensuring that her family has access to food, water, shelter and other basic necessities comes at cost of her own rights and freedoms.

Honourable senators, I believe we have to support these women. We were there for the people of Libya and helped them get rid of Gadhafi. We now have to help them pick up the pieces. We cannot walk away from Libya. We must be there to ensure the human rights of all, especially women, are respected.

This past June I rose before you and spoke of a remarkable woman named Jenni Williams. Jenni Williams is a civil rights activist and founder of Women of Zimbabwe Arise!, also known as WOZA. It is an organization that helps both men and women in Zimbabwe mobilize in defence of their human rights.

Over the past nine years, WOZA has mobilized over 80,000 men and women in Zimbabwe, peacefully sparking dignity, protest and bravery in the name of human rights.

Honourable senators, Jenni Williams and her team work diligently because they believe in a world where every person — regardless of their race, religion, or creed — is treated fairly and justly because of a single truth: they are human beings.

Honourable senators, the motion I have brought forward is very relevant in today's world and in today's politics.

The recognition of December 10 as Human Rights Day is essential as it contributes to the creation of a world where all human beings are respected and treated with dignity. By simply recognizing the concept itself, we are standing with billions of people around the world in committing ourselves to a collective set of principles that promote righteousness and justice.

In June 2010, during the G8 Summit which Canada hosted, we went one step further. Through the Muskoka Initiative, Canada told the world that maternal health and the right to safe child birth was also a human right. We, as a country, demonstrated that we want to protect those who are most vulnerable. I believe this is commendable. However honourable senators, by recognizing December 10 as Human Rights Day, we will have a day where we can all reflect on what more we can do.

How can we further expand human rights?

The unfortunate reality today is that we do not live in a world where every person has full and equal access to their basic freedoms. However, I believe that we can get there one day. This will require hard work and a commitment from all countries and peoples of the world. I believe that Canada and Canadians can play a leading role in this process.

Honourable senators, I urge you to adopt this motion which recognizes December 10 as Human Rights Day. The simple acknowledgment of this motion will mean we accept the UN General Assembly's commitment to human rights, something which the international community and Canada as nation has already done. In adopting this motion, the Senate of Canada would be reaffirming our commitment to human rights and freedoms for all peoples of the world.

Honourable senators, let us not delay in this process. Let us act quickly so we can have an immediate effect. We have already waited for too long. Let us, the Senate of Canada, recognize December 10 of each year as Human Rights Day.

(On motion of Senator Tardif, debate adjourned.)

USE OF LANDMINES AND CLUSTER MUNITIONS

INQUIRY—DEBATE ADJOURNED

Hon. Elizabeth Hubley rose pursuant to notice of June 21, 2011:

> That she will call the attention of the Senate to the use of landmines and cluster munitions.

She said: Honourable senators, anti-personnel land mines and cluster munitions are indiscriminate weapons that injure and kill civilians in every corner of the globe every day. Long after the end

of a conflict, innocent men, women and children continue to fall victim to this weapon that lies dormant underneath the soil. They are a barrier to development and the result is enormous social and economic suffering as poor, rural, post-conflict societies can be overwhelmed by the challenges of repairing infrastructure and replacing lost agricultural production.

• (1720)

Land mines and cluster munitions disrupt trade and commerce, produce food shortages and inflation, perpetuate poverty and are a major obstacle to sustainable development.

It has been 14 years since the Convention on the Prohibition of the Use, Stockpiling, Production, and Transfer of Anti-Personnel Mines and Their Destruction, better known as the Mine Ban Treaty, was signed on December 3, 1997. Canada played an important leadership role in the development of the Mine Ban Treaty. In fact, Canada has had a longstanding and strong commitment to the elimination of land mines, having ceased export of land mines in 1987 and production in 1992.

In October 1996, 75 governments met in Ottawa to discuss the problems of anti-personnel land mines. Then Foreign Affairs Minister Lloyd Axworthy, in wrapping up the conference, made a surprise announcement, challenging the world to return to Ottawa in one year to sign a comprehensive treaty banning land mines. Through this announcement, Canada gave notice to the world that we believed that international cooperation was possible on this issue, and that it was finally time to take action. This announcement kicked off what has become known as the "Ottawa Process."

Over the next 14 months, a series of gatherings and consultations occurred, culminating in Oslo in September 1997, where an international agreement was reached to eliminate anti-personnel land mines. Canada's stockpile of 90,000 anti-personnel mines was destroyed in November 1997, before the Mine Ban Treaty was opened for signature, and the legislation to enforce the prohibition on land mines was also enacted in November 1997, before the treaty was opened for signature. On December 3, 1997, 122 countries signed the Mine Ban Treaty in Ottawa. After ratification by 40 nations, it came into effect in 1999.

In the past 14 years, much has been accomplished by the Mine Ban Treaty. Now, 158 countries have joined the 1997 Mine Ban Treaty — 80 per cent of the world's nations — and over 45 million stockpiled anti-personnel mines have been destroyed by state parties. The treaty is one of the great success stories of international humanitarian efforts and broad disarmament. However, a total of 72 states and 7 disputed areas are confirmed or suspected to be mine-affected. Furthermore, there were 4,191 new casualties of anti-personnel land mines recorded in 2010, and this number may well be much higher in reality due to under-reporting in severely affected areas. Of these casualties, 30 per cent were children. Regrettably, recent use of land mines by government forces has been reported in Israel, Libya and Myanmar and by non-state armed groups in Afghanistan, Colombia, Myanmar and Pakistan.

De-mining efforts continue, as does support for victim assistance. The Landmines Monitor Report released last week reported donors and affected states contributed approximately $637 million in international and national support for mine action in 2010 in 57 affected states and areas, with Afghanistan, Angola, Iraq, Sudan, Sri Lanka and Cambodia receiving 55 per cent of all international mine action contributions. Canada remained one of the top five mine action donors in 2010.

Honourable senators, the Ottawa treaty is a success story, yet one where there is still work to be done. There are 39 states not party to the Treaty. Efforts in de-mining, victim assistance and in the elimination of the use, production and stockpiles of anti-personnel land mines must continue to eradicate this indiscriminate and inhumane weapon. However, as I mentioned, land mines are not the only unexploded ordnance that cause problems for civilians post-conflict.

Following on the success of the Ottawa Treaty, in November 2003, the Cluster Munition Coalition was created by uniting more than 250 civil society organizations in 70 countries to support a ban on cluster munitions. Cluster munitions are bombs that separate in the air over a target and disperse into hundreds or thousands of smaller bomblets. These weapons cause two problems for non-combatants. First, at the time of use, the large area — up to a kilometre square — covered by these weapons put nearby civilians at risk. Second, although these munitions are designed to explode on impact, not all do. This leaves a significant number of unexploded munitions after the military action has finished, threatening civilians when they return to the area at a later date. Ninety-eight per cent of all known cluster munition casualties have been civilian.

In 2007, when the international community was unable to negotiate a legally binding instrument on cluster munitions in the traditional UN forum for such discussions, the Convention on Certain Conventional Weapons, Norway, with strong support from five other states, led a process outside of the Convention on Certain Conventional Weapons, much like Canada had done with the Ottawa process 10 years earlier. The February 2007 meeting in Oslo began what is now referred to as the "Oslo Process."

The Oslo Process, endorsed by 46 countries, championed a treaty that would prohibit the use, transfer and production of cluster munitions, require the destruction of existing stockpiles, and provide adequate resources to assist survivors and clear contaminated areas. After 18 months of work between civil society groups and participating states to hammer out the terms, states gathered in Oslo on December 3, 2008 for the signing of the UN Convention on Cluster Munitions. The convention came into effect on August 1, 2010. There are now 111 states that have signed, and 66 state parties that have ratified it.

The convention is already having an impact. Nearly 600,000 stockpiled cluster munitions containing more than 64.5 million sub-munitions have been destroyed. According to the Landmine and Cluster Munition Monitor, in 2010 at least 59,978 unexploded sub-munitions were destroyed during clearance operations around the world and more than 18.5 square kilometres of cluster munition-contaminated land was cleared. The Landmine and Cluster Munition Monitor estimates that there have been at least 16,921 casualties of cluster munitions.

Although Canada was not among the six states that led the Oslo process, we did participate actively and were among the first states to sign the Convention on Cluster Muntions in 2008. As the Leader of the Government has informed this chamber on several occasions in answer to my questions, Canada has never produced or used cluster munitions and is in the process of destroying its complete stockpile. However, Canada has still not ratified the convention or introduced in Parliament the necessary legislation to do so.

When that legislation is finally introduced, I will be most interested in examining how article 21 of the convention, known as the interoperability provision, is interpreted. Article 21 ensures Canada and participating allies can engage in combined military operations with allies who are not party to the convention. The article makes explicit provision for continued military interoperability with non-party states while at the same time making it clear state parties cannot develop, produce or otherwise acquire cluster munitions; stockpile or transfer cluster munitions; use cluster munitions; or expressly request the use of cluster munitions in cases where the choice of munitions used is within its exclusive control. It is critical that the legislation uphold the purpose and intent of the convention and not weaken it.

• (1730)

Honourable senators, there have been other recent initiatives that, if adopted, might have served to weaken the Convention on Cluster Munitions. The Oslo process came about in 2007, since the Convention on Certain Conventional Weapons, known as the CCW, was unable to come to a consensus on banning cluster munitions.

However, over the past four years, despite the Convention on Cluster Munitions, a group of government experts established under the CCW has been working on a new protocol regarding cluster munitions. Non-signatories to the Convention on Cluster Munitions, such as China, India, Israel, Russia, Turkey and the U.S., have been among the most vocal supporters of this continued work by the CCW.

Last week in Geneva, at the Fourth Review Conference of the CCW, 50 states refused on humanitarian grounds to support the text of a new protocol that was being pushed by the United States, as they felt it was weaker than the Convention on Cluster Munitions. This would lead to fragmentation in international law and was not sufficiently strong on humanitarian grounds.

In conclusion, it is clear the international community has made progress in the eradication of anti-personnel land mines and cluster munitions. The Convention on Cluster Munitions withstood attempts to weaken it last week at the Fourth Review Conference of the CCW, affirming a commitment at the international level to eradicate these inhumane weapons. However, there is still work to be done in obtaining universal adoption of both the Mine Ban Treaty and the Convention on Cluster Munitions.

Here in Canada, I urge the government to reiterate its commitment to human security and humanitarianism by introducing the legislation necessary to ratify the Convention on Cluster Munitions, legislation that maintains international standards and respects the intent and purpose of the convention.

(On motion of Senator Robichaud, debate adjourned.)

(The Senate adjourned until Wednesday, November 30, 2011, at 1:30 p.m.)

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